



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

Broadcasting Authority of Ireland

Broadcasting Complaint Decisions

April 2017

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BAI Complaints Handling Process

Under the Broadcasting Act 2009, viewers and listeners to Irish radio and television services can complain about broadcasting content which they believe is not in keeping with broadcasting codes and rules. When making a complaint, the relevant programme or commercial communication should be identified, including the date of broadcast and time. The complainant should explain what it is about the broadcast that has led them to make a complaint. It is important to set out clearly the grounds of the complaint and why the programme material or commercial content does not comply with the BAI's Broadcasting Codes. A copy of the codes may be found on the BAI's website: www.bai.ie, by emailing info@bai.ie or by phoning the BAI on 01 644 1200.

In line with the complaint process, the viewer or listener should direct their complaint to the broadcaster in the first instance and in the manner detailed in 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 complaint referrals, the BAI will have regard to the relevant codes and rules, the 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. Further information may be found on the complaints handling section of the BAI's website: www.bai.ie.

The details of the broadcasting complaints decisions reached by the BAI are set out in this document. The decisions deal with the issue of whether a programme or a commercial communication did or did not comply with the relevant legal requirements and the relevant broadcasting codes or rules. The decisions do not constitute endorsement or support for the views of either parties to the complaint nor will they address every aspect of a complaint submission. The BAI will not carry out a separate or independent assessment outside of the matters raised in the complaint.

In total, 7 complaints were considered and rejected by the Compliance Committee of the BAI. The Executive Complaints Forum considered and rejected 12 complaints. The decisions of the Compliance Committee were reached at meetings held in January and March 2017. The decisions of the Executive Complaints Forum were reached at meetings held in November and December 2016 and in January and February 2017.

Broadcasting Complaint Decisions

Rejected by the Compliance Committee

Complaint made by: Ms. Gemma O'Doherty

Ref. No. 62/16

Station:

Newstalk 106 – 108FM

Programme:

Lunchtime

Date:

10th May 2016

1. Programme

The complaint concerns Lunchtime, which was a current affairs programme, broadcast each weekday from 12.30pm to 1.30pm. The complaint relates to an interview by the presenter, Mr. Jonathan Healy, with Deputy Micheál Martin (Leader of the Fianna Fáil political party). The complaint relates to a segment of the interview that concerned Mary Boyle, who went missing as a child in Donegal in 1977.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs) and Section 48(1)(b) (offence and harm); the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs (Section 4: Rules 4.1, 4.2, 4.17, 4.19 and 4.24) and the BAI Code of Programme Standards (Principles 2 – Importance of Context, 6 – Protection of the Public Interest and 7 – Respect for Privacy).

3. Summary of Initial Complaint to the Broadcaster

The complainant states that Mary Boyle is Ireland's longest and youngest missing child and that she was murdered in 1977 in Donegal. The complainant states that a number of senior retired officers allege that a politician had ordered the Gardaí not to arrest the chief suspect.

The complainant also states that two weeks before the broadcast, she and Ann Doherty (Mary Boyle's sister) had met with Deputy Micheál Martin. She states that they informed Deputy Martin that the case was a grotesque Garda cover-up involving a politician. She states that Deputy Martin said all he could do was refer it back to the Gardaí. The complainant states that they were both very disappointed by his response.

The complainant states that on the programme broadcast, Deputy Martin made a number of comments in relation to her investigation into the murder of Mary Boyle. The complainant states that these comments were derogatory and unfair.

The complainant states that during his interview with the presenter, Deputy Martin was asked about the Mary Boyle case, at which point Deputy Martin chose to discuss the complainant instead. The complainant states that Deputy Martin said the following:

'Gemma O'Doherty does not believe in An Garda Síochána and does not have faith in them'.

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The complainant states that Deputy Martin then went on to imply that the complainant believes that T.D.s should be judge, jury and prosecutors and said he had 'serious concerns' about some of her 'political commentary' on the case. The complainant feels these comments were derogatory and unfair to her.

The complainant states that she contacted the Show immediately after Deputy Martin's comments, but having spoken to the Producer, was not given any airtime. She states that Newstalk stated they would issue a statement to the effect that the complainant did believe in An Garda Síochána, but the complainant was not satisfied with this and felt the statement should either be drafted by her or addressed through her participation in another programme.

4. Broadcaster's Response

4.1 Summary of Broadcaster's Response to the initial Complaint

Newstalk 106-108 states it was unfortunate that the complainant was disappointed with the way they handled the matter. The complainant rang complaining about the piece at around 1.20pm, and spoke to a member of the Lunchtime programme team initially. The broadcaster states that the Producer called her back within an hour. The broadcaster states that, although the complainant had not heard the piece, she made it clear that she would sue the station. The Producer felt it unwise to continue speaking with her until he contacted Newstalk's solicitors. He believes this was a fair and reasonable way to handle the matter. Newstalk takes all complaints seriously and tries to deal with them as quickly as possible.

The broadcaster states that the comments made by Deputy Martin were in the context of the Mary Boyle disappearance and the recent meeting he had with Ms. Ann Doherty and the complainant. The broadcast states that Deputy Martin said that the complainant had made it clear to him that she had no faith in the Gardaí and he questioned her view that the Gardaí had no role in this matter/investigation.

Newstalk states that the complainant's view in respect of An Garda Síochána had been widely reported in the media already and that this is directly quoted and reported in the media such as The Irish Times newspaper. The broadcaster states that it was clear that Deputy Martin was referring to the complainant's view in this particular matter and not generally. The broadcaster states that the presenter interjected and said "you can understand why after such a long passage of time..." to explain, on the complainant's behalf, why she would not have faith in the Gardaí in carrying out an investigation into this matter. The broadcaster states that Deputy Martin made it clear that her comments about having no faith in the Gardaí were in a particular context and that of the Mary Boyle disappearance investigation.

4.2 Broadcaster's Response to BAI

Newstalk 106-108 states, that at the time of the interview, the meeting Ann Doherty, the complainant and Deputy Martin had received considerable media coverage and also the complainant was in the process of making a documentary about the Mary Boyle disappearance so there was an extensive amount of coverage on it on social media also.

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As mentioned later in this response, the complainant was a guest on the Lunchtime show in March to discuss the matter. The complainant's position on the matter was very well known in the public domain and indeed publicised by her as an advocate in the campaign to open up the investigation into the disappearance of Mary Boyle and as outlined in her complaint, she believes that the case of missing Mary Boyle was a Garda cover-up involving a politician.

The broadcaster states that, by way of context and background to the complaint itself, it should be noted, the complainant telephoned complaining about the piece at 1.30pm on the day of the broadcast. She spoke to a member of the Lunchtime team initially and then the Senior Programme Editor called her back an hour later.

In terms of the specific sections of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs, the broadcaster states the following:

Section 4.1

Newstalk 106-108 denies that the broadcast was in breach of Section 4 and are satisfied that the broadcast was fair, objective and impartial and did not contain an expression of the broadcaster's own views.

The broadcaster states that Deputy Micheál Martin said that at that meeting the complainant made it clear to him that she had no faith in the Gardaí and he questioned that view i.e. that the Gardaí had no role in this matter /investigation. The broadcaster states that this has been widely reported in the media. In that regard, it is worth noting that this is directly quoted and reported in the media such as The Irish Times newspaper on 26th April 2016:-

“But we have no faith in the Gardaí. You wonder what you have to do to get justice in this country.”

Newstalk 106 – 108 is satisfied that it was made entirely clear that Deputy Martin was referring to the complainant's view in this particular matter and not that she generally held the view that she does not believe in An Garda Síochána.

The broadcaster states that both Deputy Martin and the complainant have aired their views on this subject. The broadcaster states that it should not be dragged into the middle of a widely publicised row between Deputy Martin and the complainant and this, in their view is what is happening with this complaint.

The broadcaster states that it should be noted that the complainant appeared on the Lunchtime show on March 16th, 2016 to discuss this matter and believe this should be treated as a related broadcast for the purpose of this complaint.

Section 4.2

Newstalk 106 -108 repeats the response above to this.

Section 4.19

Newstalk 106 -108 repeats the response to 4.1 and further notes that the offer of a right to reply as a gesture of goodwill was made to the complainant but this was rejected on the basis that she wanted to appear on the Show and to author it herself.

The broadcaster states that the statement drafted dealt with her complaint completely. They state that the proposed statement dealt with the complaint made by her (notwithstanding their denial of the meaning she attached to it) and they state that this is exactly what a right of reply is supposed to do. The broadcaster states that a right of reply is not about differing opinions or the broadcast of a contrary opinion, which is what Newstalk contends the complainant was seeking to do.

The broadcaster states that they also explained to her why they did not feel it appropriate to be drawn into the differences that arose between the parties on this issue. Newstalk felt that they were being drawn into a public debate / row on the issue. The broadcaster states that, as noted already, they had both parties on-air to discuss the issue and they state that that is all they can do to be fair and objective and in line with their obligations under the Code.

The right of reply Newstalk offered to the complainant was as follows:

“On the show on Tuesday last week, during an interview with Micheál Martin we briefly discussed the case of the young girl Mary Boyle who disappeared in Donegal in 1977 and a recent meeting that took place between Micheál Martin, Ann Doherty who is Mary Boyle’s sister and journalist Gemma O’Doherty. Gemma O’Doherty has contacted the station and asked to have the following clarified; that while she has stated publicly that she has no faith in the Gardaí in respect of the investigation into Mary Boyle’s disappearance that this not apply to the Gardaí generally.”

The complainant rejected this offer and proceeded to make this complaint to the BAI.

Section 4.24

Newstalk 106-108 rejects that this broadcast contained a personal view or was an authored segment. It was an interview with Deputy Martin over a range of issues that briefly covered the subject matter of this complaint.

In terms of the specific sections of the Code of Programme Standards, the broadcaster states the following:

Principle 2: Importance of Context

As outlined above, Newstalk is satisfied that the context of the comments was presented in a very clear way. They state that it was entirely apparent to listeners that the comment made by Deputy Martin was that the complainant told him that she had no faith in the Gardaí in regard to this particular issue and he questioned that view that the Gardaí had no role in this matter /investigation. This has been widely reported in the media already - that at that meeting the complainant made it clear that she had no faith in the Gardaí.

The broadcaster states that, again, this was re-enforced by the presenter's interjection "you can understand why after such a long passage of time..." to explain, on her behalf, why she would not have faith in the Gardaí in carrying out an investigation into this matter. This provided further context and clarity.

Principle 6: Protection of the Public Interest

Newstalk 106-108 rejects that this was in any way in disregard of this Principle. They state that on the contrary, the issues that are being ventilated in the media including the cause that the complainant is advocating and the response of the government are absolutely in the public interest. The broadcaster states that there was nothing in the broadcast that could be argued as promoting, inciting or tending to undermine the authority of the state. There was nothing that promoted the interests of any one organisation. They state that the broadcast was entirely in the public interest and all parties involved have been dealt with fairly in the context of a matter of public importance and in the public interest.

Principle 7: Respect for Privacy

Newstalk 106-108 does not accept that there was a breach of this Principle or that they unreasonably encroached upon the complainant's privacy. The broadcaster states that the complainant has appeared on numerous public forums and media outlets making her position clear on this issue and giving interviews on it. The broadcaster states that the complainant has published tweets about the issue and has engaged in extensive promotion about the documentary she has made on the disappearance of Mary Boyle and how she believes there was a Garda cover-up involving a politician.

In those circumstances Newstalk cannot accept an argument that the comments made on Newstalk by Deputy Martin, which were in response to comments made by the complainant in the public domain, are in any way a breach of her privacy. Newstalk 106-108 cannot accept that any reasonable listener would attribute the meanings that the complainant attributes for all of the reasons outlined above. They state that the topic was clearly introduced and context provided to the listener. They state that even if a listener was not familiar with the issue it was clear that the comments related to the specific investigation, the subject matter of the questions put to Deputy Martin.

5. Decision of the Compliance Committee: Reject (Majority)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs) and Section 48(1)(b) (offence and harm), the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs (Section 4: Rules 4.1, 4.2, 4.17, 4.19 and 4.24) and the BAI Code of Programme Standards (Principles 2 – Importance of Context, 6 – Protection of the Public Interest and 7 – Respect for Privacy), the Committee has decided to reject the complaint.

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In this regard:-

- Having listened to the interview as a whole, it was the Committee's view that the audience would have understood that Deputy Martin's remarks in respect of the complainant were clearly relating to the case of the disappearance of Mary Boyle rather than being remarks suggesting that the complainant had no faith in An Garda Síochána or the justice system as a whole.
- This view was reached having regard to the fact that this segment of the discussion was clearly flagged by the presenter as relating to the case of the disappearance of Mary Boyle, with the presenter commencing the discussion with the following remarks:-

“Finally, can I ask you about Mary Boyle, missing person case, I know you have met with Ann Doherty, who is Mary Boyle's twin sister...”

The remainder of the discussion looked at the case in question, including whether there was any political interference in the investigation. The discussion included references to a meeting with Ann Doherty and Gemma O' Doherty and also to the question of the rule of law and the faith of Ann Doherty and Gemma O'Doherty in the Gardaí to investigate the case.

During this exchange, Deputy Martin stated:-

“Gemma O'Doherty does not believe in An Garda Síochána and does not have faith in them, and that leaves us all with a particular difficulty...”

This was followed by the presenter interjecting by stating:-

“You can understand why, after a long passage of time...”

Further on in the discussion, Deputy Martin stated:-

“I accept that Gemma O'Doherty and Ann Doherty have no faith in the process to do that [resolve the case].”

While Deputy Martin's comment about the complainant's view of An Garda Síochána would have clearly been problematic if stated in isolation, the Committee noted that they could not be considered in isolation from the discussion as a whole. Taking the remarks of Deputy Martin across the interview, along with those of the presenter, the Committee was satisfied that the item set out the different views on the case and it would have been clear from these remarks that the discussion in its entirety related solely to the case of Mary Boyle's disappearance and the views of Gemma O'Doherty and Ann Doherty on that case, including their views on An Garda Síochána in respect of that case alone.

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- The Committee also noted that the broadcaster offered to read a clarification on-air (and not, as stated by the broadcaster, a Right of Reply as provided for under the Broadcasting Act 2009). The Committee did not believe this statement was necessary so as to ensure fairness to the complainant but did have account of the fact that the broadcaster took steps to address the concerns of the complainant and that this demonstrated fairness to the complainant. While the complainant wished to set out her views on-air, a decision as to who to place on-air is solely an editorial matter for broadcasters. Therefore, the decision not to offer the complainant airtime as requested was not considered by the Committee to demonstrate a lack of fairness, objectivity or impartiality or to raise issues of harm and offence to the complainant.
- Having reviewed the matter, the Committee did not agree that the broadcast infringed the Broadcasting Act 2009, the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs or the BAI Code of Programme Standards in the manner specified by the complainant. Accordingly, the complaint has been rejected.

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Gearán déanta ag: An tUasal Julian de Spáinn

Uimh. Thag. 108/16

Stáisiún:

Newstalk 106FM

Clár:

Newstalk Breakfast

Dáta:

An 21 Meán Fómhair 2016

1. Clár

Baineann an gearán le ráitis ar Newstalk Breakfast, ar clár cúrsaí reatha é a chraoltar gach maidin i rith na seachtaine idir 7am agus 9am. Tagraíonn an gearán don fhocláíocht/fhrásaíocht i ráitis a rinne duine de na láithreoirí maidir le múineadh na Gaeilge i scoileanna.

2. Catagóir an Ghearáin

Seoltar an gearán ar aghaidh faoin Acht Craolacháin, 2009, Alt 48(1)(a) (cothroime, oibiachtúlacht agus neamhchlaontacht sa nuacht agus cúrsaí reatha); Cód Cothroime, Oibiachtúlachta agus Neamhchlaontachta i gCláir Nuachta agus Chúrsaí Reatha an BAI (Mír 4: Rialacha 4.1, 4.2 agus 4.3).

3. Achoimre ar an nGearán Tosaigh a rinneadh leis an gCraoltóir

Luann an gearánaí gur úsáid an láithreoir, an tUasal Paul Williams, foclaíocht/frásaíocht a cheap an gearánaí a bhí thar a bheith maslach agus a léirigh dímhéas ar aon duine a bhfuil suim acu sa Ghaeilge a úsáid sa tsochaí i rith plé maidir le scéal faoi réiteoir a d'ordaigh beirt imreoirí ó club CLG Gaeltachta chun stop a chur leis an nGaeilge a labhairt. Luann sé, anuas air sin, gur thaispeáin an láithreoir a chlaontacht phearsanta i leith na teanga nuair a dúirt sé an méid a leanas:-

- "...when we became an independent sort of nation, we tried to beat Irish into our kids and I was a victim of that system in the 70s and 80s and I despised Irish and still cannot speak Irish because of it."
- (Ag tagairt do Ghaeilge dhothuigthe Chonamara) "...it's very handy to have that because you can insult most people and they don't know that you are insulting them or giving out to them."
- (Ag tagairt do dhaoine ag labhairt Gaeilge sa Ghaeltacht ag cluiche peile) "...this is fundamentalism. You will learn the Irish and you will do it right" – luann an gearánaí gur dúradh an abairt seo i gcanúint nach bhféadfaí ach canúint Naitsíoch Ghearmánach a thabhairt uirthi.

Creideann an gearánaí go raibh sé mícheart chun comparáid a dhéanamh idir "fundamentalists" agus imreoirí peile Gaelaí a labhraíonn an Ghaeilge sa Ghaeltacht agus, fiú ní ba mheasa, labhair sé le 'canúint Naitsíoch' chun cur síos a dhéanamh ar na himreoirí seo.

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Luann an gearánaí, i ndiaidh gearán a dhéanamh le Newstalk, gur cuireadh an deis ar fáil dó chun freagairt a thabhairt ar chlár an lae dar gcionn ar an bhfrásaíocht a d'úsáid an láithreoir atá faoi chaibidil. Ní raibh an gearánaí sásta, áfach, leis an mbealach a déileáladh leis an ngearán i rith an agallaimh leis an Uasal Williams ar chlár an lae dar gcionn.

Luann an gearánaí gur léir ón tosach nach mbeadh an láithreoir ag déileáil leis an bhfriotal maslach a luann an gearánaí a d'úsáid sé ar chlár an lae roimhe sin. Luann sé, i rith an agallaimh, gur chuir an láithreoir ceist air faoin nGaeilge a bheith éigeantach don Ardteistiméireacht, agus luaigh an láithreoir - "let me discuss with you the state of the Irish language in the schools". Luann an gearánaí nach raibh aon bhaint aige seo leis an bhfoclaíocht/bhfrásaíocht a úsáideadh an lá roimhe sin ná leis na cúiseanna a bhí le dearcadh an láithreora faoi imreoirí peile a labhraíonn an Ghaeilge sa Ghaeltacht.

Maíonn an gearánaí, nuair a rinne sé iarracht chun a ghearán a chur in iúl faoin bhfoclaíocht/bhfrásaíocht a úsáideadh an lá roimhe sin, rinne an láithreoir iarracht chun cur isteach air agus ar deireadh, rinneadh beag is fiú de na pointí a rinne an gearánaí iarracht a thabhairt chun solais trína rá - "I think that you are being over-sensitive". Creideann an gearánaí gur thaispeáin seo dímheas breise air, ar an nGaeilge agus go leagann sé béim ar chlaontacht an láithreora seo i leith na teanga, dar leis.

Luann an gearánaí ráitis eile a rinne an láithreoir, ina measc... "we were beaten to a pulp by an Irish teacher because we couldn't recite the Our Father as Gaeilge..." agus "our language was beaten out of us by the British oppressors who took over this country 800 years ago, then the founding fathers in their wisdom, tried to beat it back into us. Would you agree with that?" Lean sé leis le ceist eile a chur, ina dhiaidh sin - "Do you agree that the way we taught Irish for generations in this country was not only wrong but bordering on criminal?"

Luann an gearánaí gur labhair an láithreoir arís eile fad a bhí an gearánaí ag labhairt ag deireadh an agallaimh faoina thuairim faoin teanga agus dúirt sé - "but of course, if it is such a beautiful indigenous language then why is it mandatory?" Maíonn an gearánaí nár tugadh an t-am dó chun freagairt sular bhog siad ar aghaidh chuig ábhar eile cúrsaí reatha.

Luann an gearánaí go ndearna an láithreoir, seachas leithscéal a ghabháil leis na himreoirí Gaeltachta agus le daoine a bhfuil suim acu sa Ghaeilge nuair a labhair sé le 'canúint Naitsíoch' agus nuair a thug sé "fundamentalists" orthu, a chlaontacht a léiriú go soiléir i gcaitheamh an dá chláir.

4. Freagairt an Chraoltóra

4.1 Freagairt an Chraoltóra ar an BAI

Luann Newstalk an méid seo a leanas:

- Ní léirítear go han-chruinn sa ghearán na ráitis a rinne an láithreoir agus amlíne na ráiteas siúd. Luann an craoltóir go raibh an comhrá scaipthe i rith sheó na maidine agus nach ndearnadh na ráitis atá faoi chaibidil láithreach ach mar fhreagairt ar theachtaireacht téacs a fuarthas ní ba dhéanaí sa seó.
- Luann an craoltóir go raibh an scéal atá i gceist le sonrú ar leathanach tosaigh nuachtán an Irish Times an lá céanna. Luann siad gur fhiafraigh duine de na láithreoirí, an tUasal Colette Fitzpatrick ar a comhláithreoir, an tUasal Paul Williams, ar cheap sé go raibh sé ceart go leor go n-iarrfadh réiteoir ar imreoirí CLG sa Ghaeltacht chun an Béarla a labhairt. Dúirt sé gur cheap sé go raibh sé ceart go leor agus luaigh an tUasal Fitzpatrick, ina dhiaidh sin, go raibh na himreoirí peile i dteideal a dteanga dhúchais a labhairt. Ba é an freagra a thug an tUasal Williams air seo ná nach féidir le tromlach na ndaoine in Éirinn an Ghaeilge a labhairt. D’inis sé scéal, ina dhiaidh sin, faoi chara leis ar Gaeilgeoir é a iompaíonn ar an nGaeilge nuair a thagann fearg air agus go labhraíonn sé chomh tapa sin nach féidir é a thuiscint. Dúirt sé, chomh maith leis sin, gur féidir leis seo a bheith áisiúil má tá daoine á maslú agat mar gheall nach mbeidh a fhios acu cad atá á rá.
- Ceapann an craoltóir gur shoiléir gurbh ionann seo agus iarracht ghealchroíoch chun an comhrá a chríochnú. Maíonn an craoltóir, anuas air sin, go ndearna an tUasal Fitzpatrick tuairimí an Uasail Williams a chothromú, agus trí amhlaidh a dhéanamh, rinneadh ionadaíocht do lucht na n-imreoirí labhartha Gaeilge.
- Luann an craoltóir, thart ar 20 nóiméad ina dhiaidh sin, gur léadh an teachtaireacht téacs a leanas... “Paul Williams, what an arrogant and insufferable ignoramus...Irish is the first language in our Constitution and per the constitution of the GAA, should be promoted...”

Luann an craoltóir, mar fhreagairt ar an teachtaireacht seo, gur fhreagair an tUasal Williams tríd an bpointe a dhéanamh gurb í an Ghaeilge an chéad teanga inár mBunreacht ach d’fhiafraigh sé cé acu an raibh nó nach raibh “linguistic fundamentalism ... kicking in here now”. Bhí an pointe á dhéanamh aige nach labhraíonn go leor réiteoirí an Ghaeilge agus má iarrfar orthu an Ghaeilge a labhairt, chuirfeadh seo laethanta a scoile in iúl dó agus d’úsáid sé an tagairt do chanúint Ghearmánach chun déine Ghearmánach a thabhairt le fios.

- Dar leis an gcraoltóir nach raibh Naitsithe ná bunúsaithe á dtabhairt ag an láithreoir ar dhaoine a chuireann an Ghaeilge chun cinn. B’éard a bhí á cheistiú aige ná cé acu an rabhamar nó nach rabhamar ag filleadh ar an mbealach dian a rinneadh an Ghaeilge a mhúineadh dó ar scoil.

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- Luann an craoltóir gur tugadh cuireadh don ghearánaí chun páirt a ghlacadh sa seó an lá dar gcionn chun an cheist agus saincheistanna a thagann chun solais a phlé a bhaineann leis an nGaeilge. Ceadaíodh don ghearánaí a ghearán a chur i láthair ar an aer agus luaigh sé, lena linn sin, go raibh an friotal a d'úsáid an láithreoir ina ábhar díomá agus aiféala. Luann an craoltóir gur mhínigh an tUasal Williams dó cén fáth gur bhraith sé amhlaidh bunaithe ar a eispéireas pearsanta.
- Creideann an craoltóir gur tugadh deis dhóthanach don ghearánaí chun dul i ngleic leis na ráitis a rinneadh agus chun a thuairimí faoi na saincheistanna a chur i láthair, ar nós thairbhí na Gaeilge nuair a fhoghlaimítear teangacha eile, cén fáth ar cheart di a bheith éigeantach ar scoil chun an Ghaeilge a fhoghlaim agus cén fáth go bhfuil sí fós ábhartha inniu. Chuir sé in iúl go soiléir cén fáth nach raibh sé ar aon intinn leis an láithreoir faoina eispéireas féin a úsáid roimhe seo chun faisnéis a sholáthar dá thuairim i láthair na huaire. Cháin an gearánaí tuairim an láithreora agus bhí sé an-oscailte leis an méid céanna a léiriú.
- Creideann an craoltóir gur caitheadh leis an ngearánaí go cóir mar gheall gur tugadh cuireadh dó labhairt ar an gclár Bricfeasta an lá i ndiaidh an chraolta tosaigh. Tugadh dóthain ama dó chun a dhearcadh agus a thuairimí faoin ábhar a chur i láthair. Ina theannta sin uile, ceadaíodh dó chun a dhíomá a nochtadh, gan aon duine a bheith ag cur isteach air, maidir leis na tuairimí a dtagraítear dóibh ina ghearán.

5. Cinneadh an Choiste Comhlíonta: Diúltaigh (D'aon ghuth)

I ndiaidh breithniú a dhéanamh ar an gcráoladh agus ar na haighneachtaí ón ngearánaí agus aird a thabhairt ar an Acht Craolacháin, 2009, Alt 48(1)(a) (cothroime, oibiachtúlacht agus neamhchlaontacht sa nuacht agus cúrsaí reatha); Cód Cothroime, Oibiachtúlachta agus Neamhchlaontachta i gCláir Nuachta agus Chúrsaí Reatha an BAI (Mír 4: Rialacha 4.1, 4.2 agus 4.3), rinne an Coiste an cinneadh chun an gearán a dhiúltú.

Ina leith seo:-

- Rinne an Coiste breithniú ar iomláine na dtuairimí a rinneadh maidir le ceist na Gaeilge i rith na gclár an 21 Meán Fómhair agus an 22 Meán Fómhair. I ndiaidh é sin a dhéanamh, bhí an Coiste faoin tuairim, chomh maith, gur cuireadh réimse tuairimí in iúl i gcaitheamh an dá chlár a bhí leathan a dhóthain gur comhlíonadh an riachtanas i dtaobh cothroime, oibiachtúlachta agus neamhchlaontachta.
- Tugadh faoi deara, ach go háirithe, le linn chraoladh an 21 Meán Fómhair, go ndearnadh codarsnacht idir tuairimí an Uasail Williams agus iad siúd de chuid a chomhláithreora agus trí theachtaireacht téacs a léamh ní ba dhéanaí sa chlár a cháin go mór tuairimí an Uasail Williams faoin nGaeilge. Sa mhullach air sin, ar chlár an lae dar gcionn, fillleadh ar an gceist trí agallamh leis an ngearánaí, arb ionadaí é den eagraíocht Ghaeilge, Conradh na Gaeilge.

Broadcasting Complaint Decisions

- Mheas an Coiste gur thug an t-agallamh seo an deis don ghearánaí chun an feall a thabhairt chun solais a rinne an méid a dúirt an láithreoir an lá roimhe sin. Cé gur shoiléir gur spéis leis an láithreoir an plé a aistriú óna ráitis féin a cháineadh, tugadh dhá dheis don ghearánaí chun an feall a thabhairt chun solais a chreid sé a rinne an láithreoir. Agus amhlaidh á dhéanamh, shonraigh sé gnéithe sonracha an mhéid a dúirt an láithreoir ónar eascair an feall seo. Ghabh an t-agallamh ar aghaidh, ina dhiaidh sin, chun plé níos ginearálta a dhéanamh faoi ról na Gaeilge, áit na teanga sa chóras oideachais, an chaoi go bhfuil sí éigeantach agus na tairbhí a bhaineann leis an teanga a fhoghlaim. Ba léir go raibh tuairimí éagsúla ag an ngearánaí agus an láithreoir faoi na hábhair seo. Ba léir, chomh maith leis sin, áfach, gur tugadh dóthain deiseanna don ghearánaí chun tuairimí a leagan amach a tháinig salach orthu siúd de chuid an láithreora.
- Chomhaontaigh an Coiste go bhféadfadh gur mheas roinnt daoine den lucht éisteacht go raibh ráitis an láithreora (agus tuin na ráiteas siúd) maslach. I gcomhthráth, ní chuirtear toirmeasc sna rialacha craolacháin ar láithreoir ó thuairimí a léiriú. Ina ionad sin, cuirtear toirmeasc iontu ar láithreoir ó thuairimí a léiriú ar bhealach claonpháirteach, is é sin, nuair nach gcuireann láithreoir réimse leathan tuairimí ar fáil don lucht éisteachta faoi ábhar cláir nó plé ar leith. Bhí an Coiste sásta, i ndiaidh aird a thabhairt ar na breithniúcháin thuas, go raibh réimse tuairimí ar fáil don lucht éisteachta i gcomhthéacs ar dhóchúil go mbeadh na tuairimí céanna ag daoine éagsúla den lucht éisteachta a bhí ag an láithreoir agus ag an ngearánaí.
- I ngeall ar an méid thuas, ní raibh an Coiste ar aon intinn gur sháraigh an clár ceanglais an Achta Craolacháin, 2009 nó Chód Cothroime, Oibiachtúlachta agus Neamhchlaontachta sa Nuacht agus i gCúrsaí Reatha an BAI. Diúltaíodh an gearán, dá réir sin.

Broadcasting Complaint Decisions

Complaint made by: Mr. Julian de Spáinn

Ref. No. 108/16

Station:

Newstalk 106FM

Programme:

Newstalk Breakfast

Date:

21st September 2016

1. Programme

The complaint concerns comments on Newstalk Breakfast, which is a current affairs programme broadcast each weekday morning from 7am – 9am. The complaint refers to the wording/phraseology in comments made by one of the presenters in relation the teaching of the Irish language in schools.

2. Complaint Category

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

3. Summary of Initial Complaint to the Broadcaster

The complainant states that during a discussion around a story about a referee instructing two players from a Gaeltacht GAA club to stop speaking in Irish, the presenter, Mr. Paul Williams, used wording/phraseology that the complainant found to be more than insulting and showed disrespect to anyone with an interest in using the Irish language in society. He states that, furthermore, the presenter displayed his personal prejudice towards the language when he said the following:-

- ...”when we became an independent sort of nation, we tried to beat Irish into our kids and I was a victim of that system in the 70s and 80s and I despised Irish and still cannot speak Irish because of it.”
- (Referring to indecipherable Connemara Irish) “...it’s very handy to have that because you can insult most people and they don’t know that you are insulting them or giving out to them.”
- (Referring to people speaking Irish in the Gaeltacht at a football match) “...this is fundamentalism. You will learn the Irish and you will do it right” – the complainant states that this sentence was said in what can only be identified as a ‘German Nazi’ accent.

The complainant believes it was wrong to make comparisons with “fundamentalists” and Irish-speaking Gaelic players in the Gaeltacht and, even worse, that he put on a ‘Nazi accent’ to describe these players.

Broadcasting Complaint Decisions

The complainant states that, having submitted a complaint to Newstalk, he was offered the chance to respond on the following day's programme to the phraseology used by the presenter in question. However, the complainant was not happy with the way the complaint was dealt with during the interview with Mr. Williams on the following day's programme.

The complainant states that it was evident from the start that the presenter would not be dealing with the insulting language which the complainant states he had used on the previous day's programme. He states that, during the interview, a question was put to him by the presenter about the Irish language being compulsory for the Leaving Cert, with the presenter stating - "let me discuss with you the state of the Irish language in the schools". The complainant states that this did not have any connection with the wording/phraseology used the day before or the reasons for the presenter's view about Irish speaking football players in the Gaeltacht.

The complainant claims that when he made an attempt to raise his complaint about the wording/phraseology used the day before, the presenter attempted to interrupt and in the end made little of the points the complainant tried to raise by saying - "I think that you are being over-sensitive". The complainant believes that this showed further disrespect for him, for the Irish language and highlights what he states are this presenter's prejudice towards the language.

The complainant cites other comments made by the presenter including..."we were beaten to a pulp by an Irish teacher because we couldn't recite the Our Father as Gaeilge..." and "our language was beaten out of us by the British oppressors who took over this country 800 years ago, then the founding fathers in their wisdom, tried to beat it back into us. Would you agree with that?" He then followed up with another question - "Do you agree that the way we taught Irish for generations in this country was not only wrong but bordering on criminal?"

The complainant states that at the end of the interview the presenter cut across him once again with his opinion about the language and said - "but of course, if it is such a beautiful indigenous language then why is it mandatory?" The complainant claims he wasn't given time to respond before they moved on to another current affairs topic.

The complainant states that the presenter, instead of apologising to the Gaeltacht players and people with an interest in the Irish language when he used the 'Nazi accent' and called them "fundamentalists", showed his prejudice clearly over the two programmes.

4. Broadcaster's Response

4.1 Broadcaster's Response to the BAI

Newstalk states:

- The comments made by the presenter and the timeline of same are not quite accurately represented in the complaint. The broadcaster states that the conversation was broken up throughout the morning show and the comments at issue were not spoken immediately but in response to a text message received later in the show.

Broadcasting Complaint Decisions

- The broadcaster states that the story in question appeared on the front page of the Irish Times newspaper that day. They state that one of the presenters, Ms. Colette Fitzpatrick asked her co-presenter, Mr. Paul Williams, did he think it was fair enough that a referee should ask GAA players in the Gaeltacht to speak English. He said it was and Ms. Fitzpatrick then put it to him that the football players were entitled to speak their native language. To this, Mr. Williams replied that the majority of the people in Ireland cannot speak Irish. He then gave an anecdote about a friend who is a Gaeilgeoir who, when he gets angry, reverts to Irish and he can't be understood as he speaks so fast. He also added that this can be helpful if you are insulting people as they won't know what is being said.
- The broadcaster maintains that this was clearly a light-hearted attempt at ending the discussion. The broadcaster further claims that Ms. Fitzpatrick provided balance to Mr. Williams' views and in doing so, represented the side of the Irish speaking players.
- The broadcaster states that some 20 minutes later, the following text message was read out... "Paul Williams, what an arrogant and insufferable ignoramus...Irish is the first language in our Constitution and per the constitution of the GAA, should be promoted..."

The broadcaster states that, in response to this message, Mr. Williams responded by making the point that Irish is the first language in our Constitution but asked whether "linguistic fundamentalism was kicking in here now". He was making the point that a lot of referees don't speak Irish and if they are going to be made speak Irish, this is harking back to his school days and he used the reference to a German accent as a pointer to German strictness.

- The broadcaster claims that the presenter was not calling people who advocate the Irish language, Nazis or fundamentalists. He was questioning whether we were returning to the strict way he was taught Irish in school.
- The broadcaster states that the complainant was invited to take part in the show the next day to discuss the matter and issues arising related to the Irish language. The complainant was permitted to present his complaint on-air during which he stated that the language used by the presenter was disappointing and regrettable. The broadcaster states that Mr. Williams explained to him why he felt the way he did based on his personal experience.
- The broadcaster believes that the complainant was given ample opportunity to address the comments made and to present his views on the issues such as the benefits of the Irish language when learning other languages, why it should be mandatory in school to learn Irish and why it is still relevant today. He clearly articulated why he disagreed with the presenter about using his own experience in the past to inform his view today. The complainant was critical of presenter's view and was very forthright in expressing same.
- The broadcaster believes the complainant was treated fairly by virtue of the fact that he was invited on the Breakfast programme the day after the initial broadcast. He was given sufficient time to present his position and views on the subject matter. He was also permitted to ventilate uninterrupted, his disappointment in respect of the comments referred to in his complaint.

5. Decision of the Compliance Committee: Reject (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster having also had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs) and the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4: Rules 4.1, 4.2 and 4.3), the Committee has decided to reject the complaint.

In this regard:-

- The Committee has considered the totality of comments made on the subject of the Irish language during the programmes of the 21st of September and the 22nd September. Having done so, it was of the view that there were a range of views articulated across both programmes such that the requirement for fairness, objectivity and impartiality were met.
- In particular, it was noted that on the broadcast of the 21st, the views of Mr. Williams were counterpointed by those of his co-presenter and by the reading of a text later in the programme that was strongly critical of Mr Williams' views on the Irish language. In addition, on the next day's programme, the topic was returned to via an interview with the complainant, a representative of an Irish language organisation, Conradh na Gaeilge.
- The Committee found that this interview afforded the complainant the opportunity to highlight the offence that had been caused by the remarks that the presenter made the previous day. While the presenter was clearly interested in moving the discussion away from criticisms of his own comments, the complainant was offered two opportunities to highlight the offence that he believed the presenter had caused. In doing so, he detailed the specific elements of the presenter's remarks that led to this offence. The interview then moved on to a more general discussion about the role of the Irish language, its place in the education system, the fact that it is mandatory and the benefits of learning the language. It was evident that the presenter and the complainant had different views on these topics. However, it was also evident that the complainant was given sufficient opportunities to set out views that were contrary to those of the presenter.
- The Committee agreed that some members of the audience may have found the presenter's comments (and the tone of those comments) offensive. At the same time, the broadcasting rules do not prohibit a presenter from expressing views. Rather, they prohibit the expression of views by a presenter in a partisan manner, namely where a presenter denies audiences a wide variety of views on the subject of a given programme or discussion. The Committee was satisfied, having had regard to the above considerations, that a variety of views were available to the audience in a context where the views of the presenter and of the complainant would be likely to have been shared by different members of the listening audience.

Broadcasting Complaint Decisions

- In view of the above, the Committee did not agree that the programme infringed the requirements of the Broadcasting Act 2009 or the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Donagh Ward

Ref. No. 113/16

Station:

Newstalk 106FM

Programme:

High Noon

Date:

4th October 2016

1. Programme

The complaint concerns an interview on the programme, High Noon, which features a mix of lifestyle, entertainment, current affairs, news and interviews, and which is broadcast each weekday from 12pm – 2pm. The complaint refers to an interview with a consultant paediatrician on the issue of the HPV Vaccine.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4: Rules 4.1, 4.2, 4.3, 4.17, 4.19, 4.22 and 4.24).

3. Summary of Initial Complaint to the Broadcaster

The complainant states that, in his opinion, the presenter's view on the subject of the Gardasil HPV Vaccine included in the programme in question was ill-informed and irresponsible and ensured a lack of fairness, objectivity and impartiality.

The complainant states that the presenter, in setting out what the complainant considers to be the presenter's plainly wrong views, caused undue anxiety. The complainant states that the topic of the interview is a serious health issue which puts girls' lives at risk. The complainant states that the uptake rates of girls opting for the HPV vaccine are decreasing, and he states that the approach of the presenter in this instance has, in his view, an impact on take-up of the vaccine.

4 Broadcaster's Response

4.1 Summary of Broadcaster's Response to the Initial Complaint

Newstalk states:

- The discussion with the consultant paediatrician was in the context of a wider exploration of the concerns expressed to the presenter by parents and grandparents of teenage girls over a number of weeks on the programme. The broadcaster states that later in the same show, the HSE's National Immunisation Office spoke to the presenter to clarify some of the points raised about the vaccination programme.

Broadcasting Complaint Decisions

- The broadcaster states that, in recent weeks, the presenter had spoken with the grandmother of a teenage girl who suffered from side-effects which she said were related to the HPV vaccine, but Newstalk was careful to ensure the public interest was served on the programme by also hearing from a number of contributors who are strongly supportive of the vaccine, such as a consultant in Temple Street Children's Hospital, a representative from the Irish Cancer Society and the resident GP on the programme.
- The broadcaster states that they have also entered into a consultation process with the HSE to further inform any future coverage of this topic on the programme and are happy to have the complainant contribute to the show at a future date.

4.2 Broadcaster's Response to BAI

Newstalk states:

- They are confident that the consultant paediatrician interviewed on the programme very ably engaged in a robust debate with presenter on the subject and presented a strong and solid case for the vaccine.
- They believe that the presenter had a right to raise this issue on the programme as a public health issue, given the examples of alleged adverse side-effects the programme had heard of through SMS and email correspondence following the first segment on this issue on 12th September.
- The broadcaster states, however, that they were also acutely aware of the widespread support for the vaccine from public health professionals and the programme heard from representatives from this sector of the community regularly in the weeks before and after the interview in question.
- Subsequent to the broadcast, the Editor-in-Chief of Newstalk, met with the HSE for briefing and advice to further inform any future coverage of this topic on the programme.

5. Decision of the Compliance Committee: Reject (Majority)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs) and the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4: Rules 4.1, 4.2, 4.3, 4.17, 4.19, 4.22 and 4.24), the Committee has decided to reject the complaint.

Broadcasting Complaint Decisions

In this regard:-

- Members noted that the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs highlights the central role of the presenter for audiences. In this regard, the Code notes the important role of the presenter in ensuring that audiences have access to a wide variety of views on the subject of the programme or item. It also notes the role of the presenter as the person who has a key role in facilitating the expression of contributors' opinions, sometimes by forceful questioning. However, the Code also recognises that this important role can be undertaken in a manner that does not serve the interests of audiences, such as where a presenter articulates a biased partisan view on a matter which is of current public debate or controversy. More generally, the Committee noted the obligation in the BAI news and current affairs code to present content with due accuracy, having regard to the circumstances and the facts known at the time of preparing and broadcasting the content.
- In considering prior complaints on the topic of the HPV vaccine, the Committee has noted that the issue of reported side effects is a legitimate topic to be examined by news and current affairs programmes. It has also noted that it is suitable for a presenter to set out strongly the views of those who believe there is a relationship between side effects and the vaccine. For this reason, in the case of the current complaint, the focus of the interview and the examination of the issues relating to the vaccine were not at issue. Rather, the Committee considered whether the discussion was fair, objective and impartial.

Having considered the programme and the requirements of the 2009 Act and the BAI's Code, the Committee has taken the view that the programme met the requirements of the Code, but only in a barely minimal fashion.

- In considering the complaint, the Committee had regard to the manner in which the presenter approached the interviews. In this respect, it was the Committee's view that the presenter did not appear to be very familiar with the details of the issue that the programme sought to examine, including the question about information available to the public from the HSE, as well as scientific discussions and research in respect of any link between the HPV vaccine and the side effects reported in Ireland and elsewhere. This was evident from the number of corrections to his assertions which were made by his guests, a consultant paediatrician and a representative from the HSE, assertions which he was only occasionally in a position to examine in any detail. Moreover, the presenter, did not appear to have sufficient regard to the information that his guests were providing insofar as his approach was focused almost singly on the view that there was a link between the vaccine and reported side effects in Ireland and elsewhere. This was considered problematic by the Committee, given that the topic under discussion is a matter of public importance and one which concerns the health of children, and also having regard to the important role of a presenter when discussing topics of this nature and the need for due accuracy and adequate research.
- Notwithstanding the above, in assessing complaints, the Committee will have regard to a number of contextual factors and will consider the programme content as a whole, including the perspectives of the presenter, listeners and any other on-air contributors, such as in-studio guests, as featured.

Broadcasting Complaint Decisions

In the case of the programme in question, the Committee was of the view that the contributions from the consultant paediatrician and the representative from the HSE ensured that the discussion as a whole was fair, objective and impartial.

The consultant paediatrician was interviewed at length about the purpose of administering the vaccine and the question of whether it was safe and whether the ill-health highlighted by listeners and in other jurisdictions could have occurred because of the administration of the vaccine. The Committee found that this guest was given the full opportunity to set out his expert view that the vaccine is safe and not responsible for the illnesses that have been reported by some parents. This guest also robustly challenged the views of the presenter on a number of occasions. The Committee also noted that the programme appeared responsive to the concerns of the HSE in respect of the information that the presenter was providing in that the representative was placed on-air in circumstances where it appears that this was not planned in advance but rather in response to negative feedback from the HSE. This guest also robustly challenged the information provided by the presenter earlier in the programme.

- In assessing complaints, the Committee will also have regard to the type of programme, including the style of the presenter. The presenter style in this instance is often robust in approach and tone and is characterised strongly by an approach to presentation that emphasises the role of the presenter as ‘devil’s advocate’. In this regard, regular listeners to the programme would be familiar with this style, which was evident in the programme in question. The Committee has also found in the case of prior complaints, that the programme approach also facilitates frequent caller responses, many of which are highly critical of the presenter and this was evident in audience responses to the programme view.
- Having considered the programme as a whole and the approach of the presenter in the context of audience expectations and the style of the programme, the Committee found that the interviews, as well as critical texts, provided the suitable counter-balance to those of the presenter.

The facilitation of these views ensured that, while the presenter came close, he did not, on balance, misuse his role so as to articulate a biased and partisan position on a matter of public controversy and current public debate. Therefore, while holding the opinion that there were apparent weaknesses in the production and presentation of the programme, the Committee was of the view that these were matters relating to the quality of the programme and ones which, while not serving the interests of all of the listening audience, were not such that a decision to uphold the complaint was warranted.

- The Committee noted in the response from the broadcaster that Newstalk met with the HSE for a briefing and advice to further inform any future coverage of this topic on the programme. While this is to be welcomed, the Committee is of the view that audiences would have been better served had the programme makers engaged with the HSE in advance of the programme being broadcast.

Broadcasting Complaint Decisions

- In view of the above, the Committee agreed that the programme did not infringe the Broadcasting Act or the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs in the manner stipulated by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mrs. Ravnita Joyce

Ref. No. 114/16

Station:

Today FM

Programme:

The Last Word

Date:

4th October 2016

1. Programme

The complaint concerns a discussion on The Last Word, an entertainment/lifestyle and current affairs programme broadcast each weekday evening from 4.30pm – 7pm. The complaint refers to a discussion involving journalist and broadcaster, Ms. Katie Hopkins and Mr. Hugh Linehan, journalist with the Irish Times newspaper, on a report by the European Commission against Racism and Intolerance (ECRI).

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards – Principles 1 (Respect for Community Standards), 2 (Importance of Context), 3 (Protection from Harm), 4 (Protection of Children), 5 (Respect for Persons and Groups in Society) and 6 (Protection of the Public Interest).

3. Summary of Initial Complaint to the Broadcaster

- The complainant states that, as a migrant in Ireland, she found the language used by Ms. Hopkins during the discussion to be coarse and offensive. The complainant states that Ms. Hopkins' article in a British newspaper, which the complainant states described migrants and asylum seekers as a plague/swarm of cockroaches, was very offensive. The complainant states that the degree of harm in the inclusion of such speech, given the time of broadcast, should have been considered by the broadcaster. The complainant believes that the use of what she describes as hate speech directed at migrants and refugees, broadcast during the school run, was detrimental to these people.
- The complainant states that she was unaware of the upcoming content of the discussion and the effect on her was physical, visceral and immediate. The complainant further states that the failure by the broadcaster to provide a warning was exacerbated by the failure to provide support mechanisms for victims of trauma association with the discussion.
- The complainant states that the distress of such a discussion, inciting the desire for people to drill holes in boats, implying the disadvantage of 'migrant cockroaches' surviving the holocausts, was imagery that was directly harmful and offensive to the complainant. The complainant believes that the material that was broadcast encouraged people to imitate acts damaging to the health and safety of others. The complainant believes that the item could have been broadcast by omitting the explicit use of offensive phrases and the focus on migrants and refugees.

Broadcasting Complaint Decisions

- The complainant refers to the Council of Europe, which she states explicitly noted the responsibility of the media regarding the proliferation of such intolerant and racist speech. The complainant states that the discussion disregarded the State's obligation to offer protection to EU citizens who are migrants in the country and their freedom of speech and safety.
- The complainant also noted that the programme did not include a migrant or refugees as part of the discussion. Their viewpoint was omitted and this created bias in favour of non-migrant, non-refugee, non-first hand voices.

4. Broadcaster's Response

4.1 Summary of Broadcaster's Initial Response to the Complainant

- Today FM states that the discussion involving Ms. Katie Hopkins and Mr. Hugh Linehan dealt specifically with a report by the European Commission against Racism and Intolerance (ECRI) which found that hate speech online and in traditional media, has "soared" since 2013. The item set out to ask at what point 'free speech' becomes 'hate speech' and what laws and guidelines are in place to prevent the latter being published in mainstream media. The broadcaster states that the programme did not at any stage set out to question whether Ms. Hopkins' views on migrants are right or wrong, but rather whether the press is right or wrong to give her, and columnists like her, a platform in their publications.
- The presenter quoted an extract from an ECRI report referring to hate speech in traditional media and on the internet and noted that a column by Ms. Hopkins was singled out in the report, and it was for this reason that she was invited on the programme. The broadcaster states that the programme item was focused on press ethics and also on the rules applying around hate speech and the media in Ireland.
- The broadcaster states that Mr. Linehan of the Irish Times newspaper was chosen as a second guest. He was chosen because of his strongly held view that people such as Ms. Hopkins should not be given a platform in the media. This, from the broadcaster's perspective, set out the argument from an objective standpoint with an impartial view. Had a migrant been the second guest, the broadcaster believes it would have been an 'is she right or wrong about immigration' discussion as opposed to a discussion dealing with the question of whether the media is right or wrong to give Ms. Hopkins an unchallenged platform for discussion.
- The broadcaster states that it was mindful of the fact that Ms. Hopkins is a professional journalist and broadcaster, therefore it was essential that the second guest was also a very experienced and capable media performer.
- The broadcaster maintains that Mr. Linehan was highly critical of Ms. Hopkins' 2015 column singled out in the ECRI report and of what Mr. Linehan described during the programme as the 'pitiful regulations' in Britain and Northern Ireland that allow newspapers like The Sun to give her a free platform. The broadcaster states that Mr. Linehan also clearly made the point that press regulation in Ireland would not allow a column like this to be published.

Broadcasting Complaint Decisions

Furthermore, Mr. Linehan pointed out that when people like Ms. Hopkins are allowed to express their anti-immigration views, then it is incumbent upon all of us to ‘call them out as fascist bigots.’”

- The broadcaster states that at no point was Ms. Hopkins given free rein to express her opinions unchallenged – both Mr. Linehan and the presenter, challenged her several times throughout the discussion.

4.2 Summary of Broadcaster’s Response to BAI

Today FM reiterates the above and adds the following referring to the context in which this complaint will be reviewed:-

- **Principle 1: Respect for Community Standards**

It is the broadcaster’s position that The Last Word took due care not to broadcast offensive material. The broadcaster feels that while the complainant took personal offence, this offence is subjective and was not strategically intended by the broadcast. Also in this instance, the broadcaster took great care and attention to avoid this very thing.

- **Principle 2: Importance of Context**

The broadcaster maintains that the producers gave due consideration to the context of this broadcast and in doing so, set out the parameters of its position very clearly. The presenter established the details of ECRI report and invited the very person who had been singled out by the report, and challenged them, in a professional and experienced capacity. The broadcaster believes that the inclusion of Ms’ Hopkins’ comments was editorially justified.

- **Principle 3: Protection from Harm**

The broadcaster states that the programme recognises that some listeners need to be given special consideration, but refutes the allegation that by airing this content, it damaged migrants. The broadcaster states that a conversation on the issues discussed on the programme needs to be had in order to stop the publication and airing of damaging content to those who are vulnerable, and by inviting a migrant into the conversation, the broadcaster believes that in itself would have caused harm and greater offence.

- **Principle 4: Protection of Children**

The broadcaster does not believe this Principle should be under consideration in any capacity.

- **Principle 5: Respect for Persons and Groups in Society**

The broadcaster recognises that this type of content does subjectively bring in to consideration this broadcasting principle. However, this particular broadcast was used to promote the need to protect certain groups in society. It debated the facts that in some places (Britain and Northern Ireland) offensive material is published and broadcasts are allowed to air uncensored with the result that offence is caused.

Broadcasting Complaint Decisions

The broadcaster also maintains that the broadcast, and the position of each contributor, further established the need for regulations on airing offensive content. No group or person was singled out and the programme effectively debated a contentious subject but did not provide a platform for hate or abuse.

- **Principle 6: Protection of the Public Interest**

The broadcaster believes that this broadcast absolutely informed the public interest. It set out to highlight the report by the European Commission against Racism and Intolerance (ECRI) which found that hate speech online and in traditional media has “soared” since 2013. The broadcaster maintains that the evenly debated broadcast, informed the public of the report.

The broadcaster states that the programme also set out to ask at what point ‘free speech’ becomes ‘hate speech’ and what laws and guidelines are in place to prevent the latter being published in mainstream media. The broadcaster believes that this is a public service and it brought to air an extremely sensitive subject and the need for its regulation.

- The broadcaster states that the discussion showed how people like Ms. Hopkins believe that their position is correct versus the position of Mr. Linehan, who represents a different point of view. To that end, the broadcaster feels the item met its objectives, and complied with the broadcasting standards.
- In summary, the broadcaster states that it is always disappointed when personal offence is felt in any capacity, but it continues to represent these subjects, not as sensationalist broadcasting, but because they are warranted and important issues to debate in a public forum. The public need to be informed of all aspects of a debate and be allowed to form their own opinion.

5. **Decision of the Compliance Committee: Reject (Majority)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the Broadcasting Act 2009, Section 48(1)(b)(harm & offence) and the BAI Code of Programme Standards – Principles 1 (Respect for Community Standards), 2 (Importance of Context), 3 (Protection from Harm), 4 (Protection of Children), 5 (Respect for Persons and Groups in Society) and 6 (Protection of the Public Interest), the Committee had decided to reject the complaint.

In this regard:-

- It was the Committee’s view that the quotation of clearly offensive comments made by Ms. Hopkins in respect of migrants, and her support of these comments in the programme interview, was editorially justified. The item in question set out to examine the issue of free speech and hate speech and did so in the context of a report by the European Commission against Racism and Intolerance, which was highly critical of Ms. Hopkins’ article.

The inclusion of a quote from the article was considered by the Committee to be necessary in order to discuss the topic and to provide context for the discussion, particularly where the author of the article that was the subject of criticism in the report of the European Commission was a guest on the programme.

- Having considered the content, the Committee found that the views of Ms. Hopkins, as articulated during the interview and also in the article quoted, did not go unchallenged. Challenges were provided via the questions of the presenter but especially via comments made by the other guest on the programme, Mr. Hugh Linehan, who was highly critical of Ms. Hopkins' views. Moreover, the context for the item was criticism of Ms. Hopkins' views as set out in a report produced by the European Commission and this would have been evident to listeners.

The Committee was of the opinion that the item as a whole could not be understood as supporting or endorsing the views of Ms. Hopkins nor would it be likely to incite anti-social actions against immigrants. Rather, the item explored the issue of hate speech in a context where there has been a marked increase in hate speech in recent years. It was clear from the treatment of the topic that Ms. Hopkins' views were considered to be outside the generally accepted limits of acceptable speech and the question discussed was whether, therefore, she should be permitted to express those views freely. This latter point was the focus of the programme discussion.

- In considering the complaint, the Committee noted that one of the roles that broadcasters play in society is addressing the issues of the day, including those that present particular challenges to society. In approaching these issues, a broadcaster may offend some members of the audience. While the BAI Code of Programme Standards states that there is no right not to be offended by programme material, broadcasters are nevertheless required to be responsible to audiences so as to avoid undue offence e.g. by broadcasting material which crosses the line of acceptable content.

In the case of the current complaint, the Committee was cognisant that the extracts from the article by Ms. Hopkins, and her own views as expressed on-air, would have offended some audience members, in particular, those members of Irish society who arrived as migrants. In this respect, such audience members would have benefited from prior notice of the contents of Ms. Hopkins' article and the broadcaster is asked to give due consideration to this should it return to a topic such as this in the future.

However, having had regard to the editorial context for the programme discussion and the treatment of the content, the Committee did not believe that, on balance, the content should not have been broadcast or that a formal prior warning was required in this instance. The Committee also noted that the broadcast time was outside of the school run and children were not likely to have made up such a segment of the audience that their interests would have warranted additional on-air measures.

Broadcasting Complaint Decisions

- In view of the above, it was the opinion of the Committee that the programme did not infringe the Broadcasting Act 2009 or the BAI Code of Programme Standards in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Brathair Oilibhear O Ceileachair **Ref. No. 124/16, 125/16 & 126/16**

Station: RTÉ 1	Programme: Six One News & Nine News	Date: 29 th August 2016 and 5 th September 2016
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1. Programme

The complaint concerns the Six One and Nine News, broadcast each weekday. The complaint refers to a report by the RTÉ Education correspondent on the non-enrolment of a Traveller child in a secondary school in Dublin.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in news content); the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs – Rules 4.1, 4.2, 4.3 and 4.8.

3. Summary of Initial Complaint to the Broadcaster

The report dealt with the enrolment of a Traveller child in St. John's College, a secondary school located in Ballyfermot, Dublin that is operated under the Trusteeship of the De La Salle Brothers.

The complainant states that the news reports were not presented in an objective and impartial manner. The complainant states that St. John's College made efforts to enrol the child in question and that this was not reflected in the programmes. The complainant cites a number of instances which support this position.

The complainant states that the College had initially refused the child's application because it was received too late and it was within its rights to do so. However, it noted that other schools also had refused this child's application but were not subject to any cross examination or adverse publicity by RTÉ, as they believe was the case in the broadcasts that are the subject of these complaints.

It is the complainant's contention that the broadcasts by RTÉ caused grave offence to the De la Salle Brothers who founded St. John's College and whose raison d'être is to offer a human and Christian education to young people.

The complainant states that the broadcasts also caused offence to the School's Principal in the manner in which the story was reported and in the interactions by the RTÉ correspondent with the Principal. In this regard, the complainant states that RTÉ's correspondent texted and phoned the Principal on Saturday and Sunday 3rd and 4th September 2016 on a number of occasions when one would expect that this was the Principal's private time outside office hours. The complainant further states that the correspondent did not give the Principal an opportunity to explain the background to the event.

Broadcasting Complaint Decisions

They state that after the correspondent had been offered an interview with the school's Principal, the complainant claims she choose to ignore what the Principal had offered and did not reflect her views in the broadcasts in a reasonable and impartial manner.

The complainant states that the School Principal informed RTÉ's correspondent on a number of occasions that she was precluded from making a public statement about a confidential matter in relation to a student and on this basis declined a recorded interview. The complainant states that it would appear that this information was used by RTÉ to castigate the Principal along the lines of when "asked to do a recorded interview on the matter, the Principal, declined".

In summary the complainant states:

- The reports were not fair or accurate to the School Principal, to the wider school community or to the De La Salle Brothers.
- The reports have done damage to St. John's College which many people claim has discriminated against Travellers.
- The School Principal was treated unfairly by the programmes and the programme makers.

4. Broadcaster's Response

4.1 Summary of Broadcaster's Response to the Complainant

RTÉ states that the reports related to the difficulties faced in keeping children from the Traveller community in the education system beyond primary school. The reports related to the story of a Traveller child whose family missed the November enrolment deadline for St John's College, which was his family's preferred option for him. The broadcaster states that this was the school that the rest of his primary school class were going to and the fact that he did not have a place for secondary school this term.

The complainant states that the RTÉ correspondent made "no reference to the fact that St John's College had made many attempts to enrol the child in the college." RTÉ states that, however, in her report on Morning Ireland on August 29th, the RTÉ correspondent stated clearly that the school said it had visited all local primary schools and distributed application forms.

The broadcaster states that, in her reports, RTÉ's correspondent also quoted the primary school which told her it had made 'lots of efforts' to help the child's parents enroll him in secondary school, as well as their belief that there was confusion as to which school the child's parents wished him to attend. The complainant states that the correspondent quoted both schools' stated belief that it was the responsibility of parents to ensure their child had a school place.

Broadcasting Complaint Decisions

RTÉ state that the correspondent also said that the De La Salle Secondary School had refused the child's application because it was late and that 'it was well within its rights to do so'. The broadcaster states that RTÉ's correspondent offered both De la Salle primary and secondary schools the chance to be interviewed on this story, but they declined to do so, as is their right.

RTÉ further states that its correspondent first contacted the School Principal, about the child on July 26th 2016. They state that their correspondent informed the Principal that she intended doing a report and would let her know in advance when it would be broadcast. As promised, on the 26th August 2016, the RTÉ correspondent texted the Principal informing her that RTÉ was hoping to broadcast a report on the matter on the following Monday or Tuesday. The School Principal was invited to do a recorded interview but declined.

The broadcaster states that the RTÉ correspondent again contacted the Principal on September 4th 2016 and told her that RTÉ hoped to return again to the story the next day, following receipt of enrolment data from the Department of Education. The broadcaster states that on Sunday morning, the RTÉ correspondent asked the Principal to comment on the fact that the school was enrolling just 38 boys into First Year that year, when data from the Department of Education and Skills showed this was significantly fewer than previous years. The broadcaster states that its correspondent was in touch with the Principal in relation to this new data on several occasions that day by text, email and in a 'phone conversation that evening.

4.2 Summary of Broadcaster's Response to the BAI

RTÉ state that the complainant alleges inaccuracy, unfairness and a lack of impartiality and objectivity in the report. The broadcaster states that the complainant ignores the fact that the broadcast reported on the position of the school and noted that the complainant does not question the accuracy of the reporting of that position. The broadcaster states that the complainant does not cite a single inaccurate statement in the broadcast.

In relation to the RTÉ correspondent's dealings with the School Principal, the broadcaster states that the complainant's allegations are completely at variance with the experience of its correspondent and he offers no evidence of the objective veracity of his allegations.

RTÉ states that it impartially reported on a matter of public interest, contextualised through the citing of statistics on the fall-out of Traveller children from education and interviews with a spokesperson of the Ballyfermot Traveller Action Group and with a Traveller university student.

The broadcaster states that there was no intention to cause harm or offence to any person or group, the particular case in question being reported as emblematic of a socio-educational issue rather than the sole responsibility of a particular school or indeed religious order, including the correspondent noting that other schools had rejected the application of the child in question. They state that, in this context, the reporting of this programme and in subsequent bulletins, St John's College's decision to accept the child as a pupil may be noted.

5. Decision of the Compliance Committee: Reject (Unanimous)

Having considered the broadcasts and the submissions from the complainant and the broadcaster and having also had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in news content) and the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs (Rules 4.1, 4.2, 4.3 and 4.8), the Committee has decided to reject the complaints.

In this regard:-

- The Committee considered the three broadcasts in question. It noted that the broadcasts followed the development of the story over one week. The broadcasts examined the story from the perspective of the child, his parents and the family. They also focused on the broader issue of participation and progression by Traveller children in the Irish education system, including within the community of Ballyfermot, where the school is based and where the family lives.
- Upon its review of the programmes, the Committee noted that they set out the facts of the story which gave rise to the news reports. Namely, that the child had initially been refused entry to the school and, at the time of the first broadcast, he had no place for the academic year, which had already commenced. The Committee found that the report focused on the story of one child as a means of exploring the broader question of access by Traveller children to the education system. While the story focused on one school, the Committee considered this appropriate given that this was the secondary school that the family wanted their child to attend since it was the school that his primary school classmates were also attending. This approach, focusing on the human interest aspect of the story, is a common editorial technique and the Committee did not believe that focusing on this school over others was evidence of bias but arose, naturally, from the particulars of the story.
- In considering the complaint, the Committee also noted that the school was unavoidably limited in the manner in which it could set out its views. This was because the story involved personal and confidential issues that the school could, rightly, not elaborate upon in a news interview.

Rule 4.8 of the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs states that the refusal of a person or organisation to participate in a programme will not preclude the broadcast of a news and current affairs story. The Code also states that the broadcaster has an obligation to reflect, as far as is practicable, the views of the absent party. However, a decision not to participate, for whatever reason, will impact on how the views of the absent party are presented.

- In the case of the three reports, the Committee found that these set out, at different points, the views of the school. In particular, the reports cited the reason as to why the child had been refused a place in the school, on account of the application being late. The reports also noted that the school was fully within its rights to refuse entry on account of the late application.

Broadcasting Complaint Decisions

The reports also stated that the school had made a lot of effort to assist the child and the family and that other schools had rejected the family's application to attend. Furthermore, the reports set out the view of the school as to why there were less school places than in previous years, namely because of a reduction in the number of classes (and hence places) as a result of declining enrolment.

Having reviewed the reports, it was the Committee's opinion that the broadcaster adequately reflected the views of the school, given the time limits in place for the reports and taking into account the decision of the school not to participate in the programme items. The Committee also found nothing in the reports or the submissions from the complainant which would suggest that the views of the school, as represented, were inaccurately reported or did not reflect the views of the school.

- The complainant also set out its concerns about the manner in which the RTÉ correspondent interacted with the School Principal and also how accurately the reports reflected the information provided by the Principal. In this regard, the Committee noted the different views of the complainant and the broadcaster and, in the absence of any objective facts on the matter, it is not in a position to reach a conclusion on this aspect of the complaint.
- In view of the above, it is the opinion of the Committee that the broadcasts in question did not infringe the Broadcasting Act 2009 or the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs in the manner specified by the complainant. Accordingly, the Committee has decided to reject the complaints.

Rejected by the Executive Complaints Forum

Complaint made by: Mr. Karl Martin

Ref. No. 93/16

Station:	Programme:	Date:
RTÉ One	Peacekeepers: The Irish in South Lebanon	12 th July 2016

1. Programme

The complaint concerns a documentary - Peacekeepers: The Irish in South Lebanon. The programme was about the experience of the Irish Defence Forces in South Lebanon from 1978 to the present day.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4, Rules 4.1, 4.2, 4.3, 4.9, 4.10, 4.11, 4.17).

3. Complaint Summary

- The complainant states that the documentary presented the views of prominent critics of Israel without any balancing voices and he states that this resulted in important areas of co-operation between Israel and the Irish army being ignored. He identifies Mr. Robert Fisk, Ms. Lara Marlowe and Dr. Ray Murphy as those critics of Israel included in the programme.
- The complainant claims that the unfairness and bias was evident about 30 seconds into the documentary when the narrator stated that “since the first Irish troops arrived in 1978, 47 Irish soldiers have lost their lives trying to keep the fragile peace”. He states that after Mr. Fisk’s comments on UNIFIL’s UN mandate, footage appeared of the distinguished Irish soldier Col. Tony Bracken stating “the decision was made that fire would be returned in kind”. The complainant claims that a video of an Israeli F15 fighter with the Star of David was then clearly visible. This was followed by unidentified UN soldiers carrying a stretcher while Ms. Marlowe stated “when we arrived there was literally blood flowing down from the hillside”. The complainant states that, thus, within the first minute of the programme, Israel had been associated by implication, with the deaths of 47 Irish personnel since no other combatant linked to Irish soldiers’ deaths was featured.
- The complainant states that, of the 47 Irish who died in Lebanon, the great majority died in accidents – but the narrator wrongly referred to this majority as “a number”. He also states that three Irish soldiers were shot dead in 1982 by an Irish army Private.

Broadcasting Complaint Decisions

- The complainant highlights cases of shootings by the Palestinian Liberation Organisation (PLO) and states that he could find no mention in the documentary that the PLO killed more Irish soldiers than the Israelis. The complainant adds that despite the destructive part played by the PLO in Lebanon from the 1970s, there was only a short video of them in this documentary. He states that this approach was clearly intended to counterpoint 'poor little PLO' with 'mighty Israel'. However, this did not reflect the fact that at this stage the PLO was backed by both Syria and the USSR.
- The complainant states that none of several vital missions he refers to in his submission, were featured in this documentary and instead it zoned in on Irish platoon post 6.52 and the Blue Line with Israel. As a result, he believes that the programme unfairly implied that Israelis on the Blue Line constitute the major problem for Irish troops.
- The complainant maintains that a scene near the end of the documentary illustrates what he describes as the agenda-driven nature of this documentary. The complainant describes the scene in question. The complainant believes that the editing of Peacekeepers held the Irish army privates and NCOs up to possible ridicule.

4. Broadcaster's Response

4.1 Broadcaster's Response to Complainant

- RTÉ states that great care was taken throughout the programme to present the facts and historical events featured with impartiality and objectivity. The documentary focused on the experience of Irish soldiers and therefore contributors were chosen for their particular connections to and experience of, the Irish involvement with UNIFIL. The contributors used in the programme are experts in their relative areas, with particular individual experience of the UNIFIL mission, and in no way were chosen because of any perceived bias.
- The complaint refers to Ms. Lara Marlowe, Mr. Robert Fisk and Dr. Ray Murphy. The broadcaster states that these contributors were not chosen because of any bias and in no way is any bias shown against Israel in the programme. While the reality of the suffering involved for the Lebanese people might be unpalatable, they are real events recorded in the documentary because of the impact they had on the Irish soldiers serving there at the time.
- The broadcaster states that the documentary covers a very long period of time, decades of peacekeeping and it would be impossible to include every positive or negative engagement with the Israeli defence forces or indeed the corresponding groups that the UN mission were dealing with on the Lebanese side.
- The short introductory sequence at the beginning of the programme included images, quotes and sequences from across the documentary. The broadcaster states that the intended effect was to show that the Irish troops were operating in a dangerous and at times, very hostile climate.

Broadcasting Complaint Decisions

- The broadcaster states that the reference to the casualties in the documentary was to acknowledge that many Irish soldiers died through accidents during their military service in Lebanon. It is difficult to understand how bias against Israel can be found in the use of the words 'a number' instead of 'majority' where a number clearly refers to a significant amount. Nowhere in the documentary is any responsibility attributed to Israel, by implication or otherwise for casualties in which they had no responsibility.
- The broadcaster states that, with reference to the deaths of some Irish soldiers raised by the complainant, the broadcaster was careful throughout the programme to tell the stories of Irish soldiers who lost their lives, with as much care and respect as possible. The broadcaster claims they were conscious at all times of the colleagues and families involved who are still grieving for the loss of their loved ones. This is why the broadcaster endeavoured to involve the families of those soldiers who lost their lives. However, it was not possible to feature every story within the timeframe of the programme. The deaths featured were perpetrated by many different factions, SLA, AMAL, etc.
- The complainant believes RTÉ ignored the destructive role in Lebanon of the PLO/Arafat. However, the broadcaster points out that great care was taken to show that all parties involved were engaged in attacks across each other's borders. The archive imagery is used to illustrate the various forces at play and clearly is not meant as a reference to military strength.
- Referring to the complainant's claim that the documentary misrepresented the role of UNIFIL and further demonised Israel, the broadcaster states that given the time constraints of the documentary, an accurate and clear picture as possible was given of the Irish Defence Forces changing role over the preceding decades and right up to the present day.
- In relation to the claim that the editing of the documentary holds Irish army Privates and NCOs up to possible ridicule, the broadcaster states that the Blue Line is a volatile area and an example was recounted during the outpost scene. On the day of filming, the equipment employed was decided on by the soldiers involved. The broadcaster maintains that it is not the place of the documentary makers to decide whether or not they are appropriate to the situation, though there is no reason to believe that the correct protocol wasn't followed. The broadcaster contests, in the strongest possible terms, the notion that the editing or script somehow left the soldiers involved open to ridicule.

4.2 Broadcaster's Response to BAI

The broadcaster refers to the response of Executive Producer above and adds the following:

- Peacekeepers: The Irish in South Lebanon is very clearly not a historical account of the war in the Middle East or in Lebanon nor a current affairs documentary on the contemporary political or military situation there. It is a human interest documentary focused on the experience of members of the Irish Defence Forces who have served as peacekeepers in South Lebanon, and of their families. In this context, broadcasters have the editorial independence to choose both topics and the perspective on those topics.

Broadcasting Complaint Decisions

- The allegations of the complainant would appear to be based on his wish that a different documentary had been made, referencing matters which do not arise in the context of the chosen editorial perspective and topics which he would have wished to see included.
- It is necessary, of course, in recounting the experience of peacekeeping Irish soldiers, to refer to the forces with which they had to deal, including the Israel Defence Forces, and militias and organisations such as Hezbollah, Amal and the South Lebanon Army (SLA).
- While maintaining that this was not a current affairs documentary, RTÉ asserts emphatically that its necessary references to the military background were entirely even-handed in keeping with Rules 4.1, 4.2, 4.3 and 4.17, including references ignored by the complainant.
- The complainant refers to a breakdown of the causes of death of Irish peacekeepers which he attributes to the journalist Mr. Robert Fisk; the broadcaster states that neither this nor any similar breakdown appears anywhere in the documentary. This reference to something which was not broadcast is used to support what the broadcaster states is the complainant's incorrect view that the documentary portrays Israel as being mainly responsible for the deaths of Irish peacekeepers.
- The broadcaster states that the complainant has selected a number of images in the documentary and interpreted them in a way which is entirely particular to his own point of view. They could not and would not reasonably be interpreted by a reasonable or impartial viewer in this way.
- In respect of Rule 4.9, the broadcaster states that there was no distortion of the context or meaning of any interviews and the complaint does not give evidence of any such distortion.
- In respect of Rule 4.10, while again maintaining that the programme was not a current affairs documentary, RTÉ rejects the allegation that any material, archive or otherwise, which was used solely to indicate the situation in which Irish peacekeepers were operating, created unfairness or resulted in inaccuracies; the complaint contains no evidence to support this allegation.
- In respect of Rule 4.11, the broadcaster states that there was no re-construction or re-enactment in the documentary requiring to be identified as such.

5. Decision of the Executive Complaints Forum: Reject (Unanimous)

The Forum considered the broadcast and the submissions from the complainant and the broadcaster and, having also had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs) and the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4, Rules 4.1, 4.2, 4.3, 4.9, 4.10, 4.11, 4.17), the Forum has rejected the complaint.

Broadcasting Complaint Decisions

In this regard:

- The Forum noted that the programme was a documentary with a human interest angle. It included the experiences of Irish peacekeepers and those of their families. It also included interviews with family members whose loved ones did not return and examined a number of these deaths.
- The Forum noted that the programme drew on, and presented facts in respect of the different political events that occurred across the period of time covered by the documentary. Given the role of the Irish peacekeepers in a conflict zone, it was natural for the programme makers to provide some historical information so as to provide context for the personal experiences of those featured in the programme and to illustrate the history and role of peacekeepers in South Lebanon. However, as a documentary with a predominant human interest angle and one which dealt with historical events, issues pertaining to fairness, objectivity and impartiality were not relevant.
- In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act 2009 or the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs, in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Jarlath Flynn

Ref. No. 95/16

Station:

RTÉ Radio One

Programme:

Morning Ireland

Date:

28th July 2016

1. Programme

The complaint concerns an interview on Morning Ireland, which is a news and currents affairs programme, broadcast each weekday morning from 7.00 – 9.00am. The complaint refers to an interview with Ms. Cora Sherlock, Deputy Chairperson of the Pro-Life Campaign.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs) and Section 48(1)(b)(harm & offence); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4 - Rules 4.1, 4.2, 4.17, 4.19 and 4.21) and the BAI Code of Programme Standards (Principle 3 – Protection from Harm, Principle 4 – Protection of Children and Principle 5 – Respect for Persons and Groups in Society).

3. Complaint Summary

The complainant claims that in an interview on Morning Ireland on the subject of the Citizens' Assembly and the 8th Amendment to the Irish Constitution, a journalist claimed that the Constitution provided for equality between the mother and the foetus. The complainant believes this was inaccurate and propagandist journalism.

The complainant states that the Constitution provides for equality between the mother and "the unborn". It also applies protection to the unborn, whether at the embryonic or foetal stage of their development.

The complainant maintains that the use of the foetal word would appear to be part of a propaganda campaign by RTÉ and print journalists. The word is utilised to acclimatise the population to its application to describe those of the population who have not yet been born, with a view to legitimising treating them less favourably than those who have been born. He states that this could be seen to have been the aim of the coverage of the unconstitutional Protection of Life in Pregnancy Amendment (Fatal Foetal Abnormalities) Bill in Dáil Éireann in recent weeks.

4. Broadcaster's Response

4.1 Broadcaster's Response to Complainant

RTÉ states that they reject that they engaged in inaccurate and propagandist journalism, in the course of this programme.

Broadcasting Complaint Decisions

The statement that clause 40.3.3 of the Constitution “gives equal rights to the woman and the foetus” used the term ‘foetus’ in the conventional sense of ‘foetal development’ which includes the various stages of pregnancy. It was in that sense an accurate paraphrase of the constitutional provision and did not breach Section 39 of the Broadcasting Act 2009, or any other provision of Broadcasting Legislation or Code.

It is noted that the term ‘foetus’ is not abusive, in a racist manner or otherwise.

4.2 Broadcaster’s Response to BAI

The broadcaster refers to the response of the series editor of Morning Ireland above and adds the following:

In her introduction to the interview with Ms. Sherlock, the presenter said:

“The Government has appointed Judge Mary Laffoy to chair the so-called Citizens’ Assembly which will examine whether the 8th amendment to the Constitution should be repealed. It gives equal rights to the woman and the foetus. We’re joined now by Cora Sherlock from the Pro-Life Campaign.”

The complaint appears to relate solely to the use of the word ‘foetus’ in the introduction and not to any other content in the broadcast.

Clinically, the term ‘foetus’ describes the developing human in the womb from the postembryonic stage, from about two months, until birth. In non-medical speech, it is used to indicate a developing human at any stage, including the embryonic. There is nothing derogatory whatsoever inherent in the term or in its use in this broadcast. The term was used in an accurate paraphrase of the constitutional provision. It was clear to listeners that the presenter was not directly quoting the Constitution; the audience was not misled.

In the use of a conventional term for the developing human there was no expression by the presenter of any view, personal or otherwise, and no breach either in this respect of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs.

5. Decision of the Executive Complaints Forum: Reject (Unanimous)

The Forum considered the broadcast and the submissions from the complainant and the broadcaster and, having had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs) and Section 48(1)(b)(harm & offence), the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4 - Rules 4.1, 4.2, 4.17, 4.19 and 4.21) and the BAI Code of Programme Standards (Principle 3 – Protection from Harm, Principle 4 – Protection of Children and Principle 5 – Respect for Persons and Groups in Society), the Forum has decided to reject the complaint.

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In this regard:

- The Forum noted that this was an interview on the subject of the Citizens' Assembly and the 8th Amendment, in which a journalist claimed that the Constitution provided for equality between the mother and the foetus. The complainant is of the belief that the use of the word 'foetus' was inaccurate and propagandist journalism.
- The Forum noted that the only time the word 'foetus' was used was in the introduction when the presenter stated-

'the Government has appointed Judge Mary Laffoy to chair the so-called Citizen's Assembly which will examine whether the Eight Amendment of the Constitution should be repealed. It gives equal rights to the woman and the foetus...'

The presenter then went on to interview Ms. Cora Sherlock, Deputy Chairperson of the Pro-Life Campaign. It was noted that Ms. Sherlock used the term 'unborn' during the interview and was given ample time to speak on the subject and did not raise the use of the word 'foetus'.

- The Forum also noted that the word 'foetus' is a medical term and is commonly used. While there are different terms that could be used, the Forum did not consider its use to be incorrect or misleading. The Forum also agreed that there were no personal views expressed during the interview.
- It was the view of the Forum, based on the above, that the programme did not infringe the requirements of the Broadcasting Act 2009, the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs or the BAI Code of Programme Standards in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Proinsias MacFhionnain

Ref. No. 106/16

Station:

RTÉ Radio One

Programme:

The Business

Date:

30th July 2016

1. Programme

The complaint concerns an interview on *The Business*, which looks at the world of business and personal finance, broadcast each Saturday morning from 10am to 11am. The complaint refers to an interview with a tax expert at PricewaterhouseCoopers Ireland (PWC) following on from an International Monetary Fund (IMF) report on the Irish economy and tax system.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4 - Rules 4.1 and 4.2).

3. Complaint Summary

The complainant states that the programme was in breach of the Broadcasting Act in respect of balance. The complainant states that RTÉ continually interviews representatives from top accountancy firms on fairness in the tax system. He states that these interviews are problematic since these accountancy firms are dependent on high earners and companies for their income. The complainant further states that only high earners can afford the hourly rates that these accountancy firms charge.

The complainant further states that there are multiple conflicts of interests here. He states that during interviews representatives from these accountancy firms continually frame the discussion that the top rate of income tax is too high. He states that it is reasonable to suppose that if they proposed an increase in the top rate of tax, they would get robust feedback from their top earning clients. The complainant also states that these firms are continually developing schemes to reduce the amount of tax top earners and companies pay.

The complainant states that RTÉ has become part of a media echo chamber trying to make proposals for lower top rate taxes acceptable and does so by giving representatives of accountancy firms an uncontested platform to air this view.

The complainant also states that there was:

- No discussion of the effect of schemes developed by large accountancy firms to help clients legally avoid taxes and how much they cost the ordinary taxpayer;
- No discussion of legal schemes like film relief at the marginal rate which is really only of benefit to high earners;

Broadcasting Complaint Decisions

- No discussion of the cost of living which has a disproportionate effect on low earners who spend most of their income on necessities of life;
- No discussion on corporate tax avoidance;
- No discussion on the amount of VAT or PAYE tax written off each year.

The complainant states that the reality is that talking only about tax rates ignores the reality that top earners find loopholes to minimise the amount of tax paid. The marginal rates do not reflect the actual amount of tax paid.

4. Broadcaster's Response

4.1 Broadcaster's Response to Complainant

RTÉ states that the focus of the IMF report was that the current structure of taxation in Ireland results in 9% of middle income earners paying more than half of all the income-tax collected in the country, while high income earners do not bear the weight of taxation and low income earners pay no tax at all.

The broadcaster states that the presenter and his guest, a tax expert with PWC Ireland, were primarily examining the fact that, while the top rate of income tax in most OECD countries is approximately 45%, and is reached at a salary level of approximately €100k, in Ireland workers with incomes of approximately €30k are taxed at a rate of 49%. Irish workers therefore hit a high rate of taxation at a relatively low level of income.

The broadcaster states that the IMF report identified this as having implications for three categories of workers, in particular:

1. Returning female workers experiencing all the attendant costs of returning to work e.g. childcare, commuting etc;
2. People overseas who might wish to locate in Ireland; and
3. Low income earners wishing to supplement their income with additional shifts and/or second jobs.

The broadcaster states that the programme presenter continued by asking his guest what solutions he envisaged could rectify these potential taxation inequalities. The suggestions offered were gradual reductions in top rate taxation over a period of years and specific forms of incentives for returning workers.

The broadcaster states that the discussion was measured and logical, given the background and context in which it took place. They states that the presenter teased out different elements of the argument and his guest's responses were highly compassionate and level, remaining very close to the questions he was asked. At no stage could this interview be constructed as an argument for tax avoidance or, indeed, for a low tax economy. Both participants were concerned to look at the societal effects of income taxation of specific demographic groups within Ireland.

4.2 Broadcaster's Response to BAI

RTÉ refers to the response by the Editor Features, Arts & Drama, Head of Cultural Strategy above and adds that broadcasters are entitled to the editorial independence to choose topics for coverage and the perspective on those topics. The broadcaster states that the topic discussed was an IMF report on the tax system in Ireland. The interview set out to analyse the significance of that report, including the concept of tax fairness in relation to the viewpoint of the IMF. The complainant proposes that the broadcast should have been on the completely separate topic of "tax avoidance". The broadcaster states that the item was transparent in that listeners were informed that the interviewee worked at the well-known accountancy firm, PWC Ireland.

5. Decision of the Executive Complaints Forum: Reject (Unanimous)

Having had regard to the broadcast, to the submissions from the complainant and the broadcaster and having also had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs) and the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4 - Rules 4.1 and 4.2), the Forum has decided to reject the complaint.

In this regard: -

- The topic under discussion was a report from the International Monetary Fund (IMF) on the tax system in Ireland. The IMF report dealt with the fairness of the Irish tax system and its implications for three categories of people i.e. female workers returning to employment, citizens who had emigrated and low income earners. The interview examined and analysed the report and included a discussion on tax fairness and how the issues highlighted in the report might or might not be remedied by Irish tax policy.
- The Forum noted that the complainant believes that the presenter should have posed questions other than those included in the discussion. This includes questions concerning the manner in which he believes large accountancy firms help their clients reduce the amount of tax that they pay, matters relating to the cost of living on low earners and the amount of VAT or PAYE tax written-off each year.
- In this regard, the Forum noted that current affairs programmes are time limited and in such a context, programme makers will decide the focus, time and extent of coverage of each item to be included in their programmes. This is a legitimate editorial decision for broadcasters. In the case of the current programme, the questions set out by the complainant could have been asked and may have informed audiences. However, as the issue of tax avoidance or matters pertaining to high earners were not the focus of the report, the programme discussion did not focus on these topics. Rather, the questions that were posed reflected the editorial focus of the discussion (the IMF report findings) and examined some of the issues that audiences would expect in respect of this topic, including views other than those of the programme guest or those set out in the IMF report.

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The Forum found that the PWC expert was there to give his expert view on the report and the Forum found no evidence of a skewed opinion from the PWC representative. The Forum could also see no evidence of bias on behalf of the broadcaster nor any evidence of the broadcaster's own view.

- In considering the complaint, the Forum also had regard to the fact that there is no automatic requirement for balance. Rather, the statutory obligation is for fairness, objectivity and impartiality in news and current affairs. While balance may be required in certain circumstances to achieve fairness, for example in an election debate, fairness can be achieved by a range of means, including via the questions posed by the presenter. In the case of the complaint in question, the Forum was satisfied that it did not require balance and that fairness was achieved by the presenter's questions.
- In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act, 2009 or the BAI Code of Fairness, Objectivity and Impartiality in Current Affairs in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Proinsias MacFhionnain

Ref. No. 107/16

Station:

RTÉ Radio One

Programme:

News at One

Date:

3rd August 2016

1. Programme

The complaint concerns an interview on the News at One, a news and current affairs programme, broadcast at 1pm each weekday. The complaint refers to an interview with Dr. Fergal Hickey, Consultant in Emergency Medicine at Sligo University Hospital and Communications Officer of the Irish Association for Emergency Medicine.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4 - Rules 4.1 and 4.2).

3. Complaint Summary

The complainant states the interview with Dr. Fergal Hickey, lacked balance, in that it allowed to go unchallenged, the view that the only answer to the problems in the Irish hospital system, is more beds and more resources.

The complainant notes that the latest OECD report shows that Ireland has the third highest spend in the OECD but the outcomes for this spend are dismal by comparison. In that context, the programme only focused on the view that getting more resources was the answer to the problem, rather than improving the system by lowering costs and improving outcomes.

The complainant states that he despairs when he hears the “more resources for us” drum beat from what he describes as vested interests, going unchallenged in interviews. The complainant states that a range of questions could have been put to Dr. Hickey so as to ensure a balanced interview, such as:-

- The cost of hospitals has increased every year without any obvious better outcomes, so why would giving an inefficient system more money solve the problem?
- Dr. Hickey proposed that cuts in beds should be restored as if the number of beds should be based on historical basis rather than as needed basis. How do we know that the beds we had were in the right place?
- Every other industry has used technology to improve efficiency, why is healthcare so far behind?
- Do we not need fewer hospitals, Sligo included, to improve efficiency?
- Don't hospital consultants have a vested interest in an inefficient system? If the public sector worked well, would patients want to pay private consultants?

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4. Broadcaster's Response

4.1 Broadcaster's Response to Complainant

RTÉ states:

- The purpose of the interview was to listen to the views of someone at the coalface of emergency medicine and to hear his views as to why there were 359 patients on trolleys around the country in the middle of summer.
- Dr. Hickey explained many of his frustrations, including his main reason for the problem - up to 2,000 hospital beds have been taken out of the system during the period of austerity and only a couple of hundred had been re-instated.
- The interviewer is an outstanding and hardworking presenter who researches her subjects thoroughly. Her interview with Dr. Hickey was no different than any other. It was fair, balanced and to the point.

4.2 Broadcaster's Response to BAI

RTÉ states broadcasters are entitled to the editorial independence to choose topics for coverage and the perspective on those topics. In this case, the topic was figures on the number of hospital beds lacking in the system and the perspective explored was clearly and transparently, that of a senior working doctor. The complainant is of the opinion that the broadcast should have covered a number of other topics on which he has particular convictions.

The broadcaster claims that the interview was transparent in that listeners were informed that Dr. Hickey was the Consultant in Emergency Medicine at Sligo University Hospital and Communications Officer of the Irish Association for Emergency Medicine (IAEM).

5. Decision of the Executive Complaints Forum: Reject (Unanimous)

The Forum having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs) and the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4 - Rules 4.1 and 4.2), has decided to reject the complaint.

In this regard: -

- It was the view of the Forum that the objective of this interview was to obtain the views of an experienced consultant as to the reasons why there was a large number of patients on hospital trolleys around the country at that time. As this was the focus of the interview, the presenter naturally posed questions in relation to the figures provided by the Irish Nurses and Midwives Organisation (INMO), regarding the 359 patients awaiting beds in hospitals.

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Dr. Hickey explained that he saw the problem as one of capacity, coupled with the need to invest in hospitals so that more beds could be provided and more nurses employed.

- The complainant believes that the presenter should have posed questions other than those of providing more beds and resources. However, the Forum noted that news programmes, by their nature, are time limited and in such a context, programme makers will decide the time and extent of coverage of each news items to be included in the programme. In practice, this can mean that topics will receive greater or lesser coverage and the detail and examination of the news topic will accordingly vary. The Forum noted that these are legitimate editorial decisions which broadcasters, as independent media providers, are entitled to make, and that these decisions may mean that programme makers may not cover all aspects of a particular news story in any one broadcast.

In the case of the current programme, the questions set out by the complainant could have been asked and would have informed audiences. However, the Forum were of the view that the questions that were posed did not result in unfairness and examined some of the issues that audiences would expect in respect of this topic.

- In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act 2009 or the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Aidan McArdle

Ref. No. 111/16

Station:

RTÉ Radio 1

Programme:

RTÉ Radio News

Date:

31st August 2016

1. Programme

The complaint concerns an RTÉ Radio News programme, broadcast at 7am. Specifically, the complaint deals with comments made by the presenter in respect of Mr. Donald Trump, who was at that time, a candidate for President of the United States.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs) and Section 48 (1)(b)(offence and harm); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4, Rules 4.1 and 4.2) and the BAI Code of Programme Standards (Principle 5 – Respect for Persons and Groups in Society).

3. Complaint Summary

The complainant states that a statement made by the news presenter reported that Mr. Donald Trump had said “Mexicans are murderers and rapists”. The complainant states he heard Mr. Trump say “Mexico is sending us its worst, including murderers, drug dealers and rapists”. The complainant believes the news report was false and misleading.

4. Broadcaster’s Response

4.1 Broadcaster’s Response to Complainant

RTÉ states that the complainant is incorrect in his quote of what was said on the 7am news. What the presenter actually said was “Donald Trump has labelled Mexican people racists and murderers...”

4.2 Broadcaster’s Response to BAI

RTÉ states that the RTÉ Washington Correspondent did not say the words alleged by the complainant. She accurately (acknowledging a slip of the tongue on the word ‘rapists’) reported Mr. Trump’s views on Mexican immigration to the United States as articulated in his announcement of his candidacy on 16th June, 2015 and reported by The New York Times newspaper.

The newspaper report stated:-

“When Mexico sends its people, they’re not sending their best — they’re not sending you. They’re not sending you. They’re sending people that have lots of problems and they’re bringing those problems with us. They’re bringing drugs. They’re bringing crime. They’re rapists. And some, I assume, are good people.”

The complainant did not identify a source for his quotation of Mr. Trump as saying “Mexico is sending us its worst including murderers, drug dealers and rapists.” Although he does capture the essence of what Mr. Trump said, and Ms. Perry reported, that it is the presidential candidate’s view that the majority of Mexican immigrants to the United States are drug dealers/carriers, criminals, rapists and killers, with his ‘assumed’ exception of “some good people”.

5. Decision of the Executive Complaints Forum: Reject (Unanimous)

The Forum considered the broadcast and the submissions from the complainant and the broadcaster and, having also had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs), the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4: Rule 4.1) and the BAI Code of Programme Standards, (Principle 5 – Persons and Groups in Society), the Forum has decided to reject the complaint.

In this regard:

- The Forum found the report in this news bulletin referred to the then upcoming American Presidential Election and statements made by the one of the candidates, Mr. Donald Trump, now President.
- In its consideration of the complaint, the Forum had regard to the general requirement to ensure that news coverage is objective and impartial, in line with the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Forum also noted the obligation set out in the BAI Code of Programme Standards that persons and groups in society be represented appropriately and in an editorially justifiably manner.
- Having reviewed the report, the Forum noted that the news presenter was paraphrasing what was said by Mr. Trump and also providing an update on the most recent declarations by Mr. Trump in relation to Mexicans, Muslims and immigrants in general. The Forum noted that the complainant claimed that the reporter stated “Mexicans are murderers and rapists”.
- Having listened to the broadcast, the Forum, found, however, that the reporter did not state the words as claimed by the complainant and, in fact, stated “Donald Trump has labelled Mexican people racists and murderers...” It was the view of the Forum that the reporter’s remarks had summarised accurately what Mr. Trump had stated.

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- In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs), the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs or the BAI Code of Programme Standards in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. David Pender

Ref. No. 112/16

Station:

Newstalk 106FM

Programme:

Newstalk Drive

Date:

14th October 2016

1. Programme

The complaint concerns comments made on Newstalk Drive, which is a current affairs programme broadcast each weekday afternoon from 4pm – 7pm. The complaint refers to comments made by one of the presenters in relation to teachers.

2. Complaint Category

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

3. Complaint Summary

- The complainant states that he was surprised to find himself and other Association of Secondary Teachers in Ireland (ASTI) likened to terrorists for taking legal industrial action over pay inequality and terms and conditions of employment.
- The complainant states that at no point on any of the days selected for industrial action will hostages be beheaded, babies blown up or lone gunmen run down the streets shooting and killing indiscriminately.
- The complainant fails to see the similarity between a democratic trade union exercising its legal right to industrial action and any terrorists group. The complainant describes the remarks as disgusting, inflammatory and inaccurate.

4. Broadcaster's Response

4.1 Broadcaster's Response to the Complainant:

Newstalk states:

- The context of the remarks made by the presenter, Ms. Sarah McInerney, were about the tactics being used by the ASTI in relation to the strike announced the previous week. One of the guests on the programme, said that by opting not to strike during mid-term break, the ASTI was leaving itself open to criticism from parents. She asked, 'why target children?' when the teachers can strike during their own time i.e. during the mid-term break. In response, the presenter said that the idea was to cause as much disruption as possible..."sort of like terrorists" in that the teachers can get their point across.

Broadcasting Complaint Decisions

A short time later she clarified her comments and stated that she had merely sought to make the point about strike tactics i.e. to cause disruption.

- The broadcaster also states that ASTI have appeared on Newstalk to set out their position on the dispute.

4.2 Broadcaster's Response to BAI

Newstalk states:

- The remarks came during a panel discussion entitled "Good Week, Bad Week". This is a weekly slot on Newstalk Drive which happens every Friday in which the issues of the week are discussed. Each week, a number of people or groups are nominated for discussion to decide whether a person or organisation has had a good week or a bad week. The discussions are typically wide-ranging.
- During this broadcast the issue of striking teachers was raised. The tactics employed by the union in question, the ASTI came up for discussion. The broadcaster states that one of the presenters, Mr. Chris Donoghue read out the dates of the proposed strikes, noting that strike days were due to happen before and after the mid-term break, but not during it. One of the guests on the programme, Ms. Mairead Lavery of the Irish Farmers' Journal said that by opting not to strike during mid-term break, the ASTI was leaving itself open to criticism from parents. Why target children, Ms. Lavery asked, when they [the teachers] could strike during their own time [i.e. mid-term break]?

In response, the other programme presenter, Ms. McInerney said that the idea of such a strike was to cause as much disruption as possible, "sort of like terrorists", so that [the teachers] can get their point across. The conversation regarding teachers ended very shortly after that.

- A short time later, Ms. McInerney returned to the topic and clarified her comments. A listener asked whether the presenter in question was comparing teachers to terrorists. No, she said, she was not seeking to compare teachers to terrorists, she had merely sought to make the point about strike tactics: the point of a strike is to cause as much disruption as possible.
- The broadcaster states that taken in context and bearing in mind the subsequent clarification, it is clear that Ms. McInerney was merely making a comment about strike tactics and not teachers per se. She did not liken ASTI members "to terrorists for taking legal industrial action over pay inequality and terms and conditions" as the complainant states – it was a distinct point about tactics. It was a point made in response to a question posed by a member of a panel discussion
- The broadcaster also states that ASTI have appeared on multiple occasions around the time of the broadcast and have been given ample opportunity to air their views.

5. Decision of the Executive Complaints Forum: Reject (Unanimous)

The Forum, having considered the broadcast and the submissions from the complainant and the broadcaster and, having also had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs) and the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4: Rules 4.1 and 4.2), has decided to reject the complaint.

In this regard:

- The BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs sets out a number of contextual factors that the BAI will have regard to when assessing complaints. These include, but are not limited to, the content of the programme and the type of programme concerned. In the case of this complaint, the Forum noted that the complaint centres on the comments made by one of the presenters when discussing the teachers' dispute.
- The Forum noted that this was a panel discussion chaired by the two presenters, Ms. Sarah McInerney and Mr. Chris Donoghue and included Mr. Kevin Doyle of the Irish Independent newspaper and Ms. Mairead Lavery of the Irish Farmers Journal. Among the topics under discussion was the upcoming teachers strike.

During the discussion, one of the panellist, Ms. Lavery, stated:

“...if they want to get their case across, why target the children? Why not just do it on the days when they're having their own break ?

The presenter, Ms. McInerney then said:-

“the whole idea, sort of like terrorists, is to cause maximum possible damage so they get their point across”.

Later, Ms. McInerney referred to tweet messages coming into the programme and said:-

“a couple of people tweeting asking if I just compared teachers to terrorists”

to which she replied:-

“No, I did not compare teachers to terrorists. What I was comparing was the strategy which is that we are discussing whether or not teachers should be taking one of the strike days during the midterm break and I was saying that wouldn't make much sense because the whole idea of a strike is to do it when you can cause the maximum possible damage to get your point across and put the Government under pressure”.

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- The Forum was of the view that the presenter could have chosen her words more carefully. However, it was clear she was referring to the methods employed when taking strike action so that sufficient pressure would be applied in order to achieve a result. Although she did refer to “terrorists”, this was not in the context of a comparison to teachers. The Forum found that the reference was used to emphasise the point that people employ tactics to cause maximum disruption in such situations. The Forum also noted that the presenter informed listeners of criticism that had been received in respect of her initial remark and also provided clarification on that remark. As such, the audience was provided with clarification as to the intent of her comments.
- In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act 2009 or the BAI 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. Proinsias MacFhionnain

Ref. No. 115/16

Station:

RTÉ Radio One

Programme:

Morning Ireland

Date:

20th September 2016

1. Programme

The complaint concerns an interview on Morning Ireland, a news and current affairs programme, broadcast from 7am to 9am each weekday morning. The complaint refers to an interview with the Tax Policy Director of the Irish Tax Institute (ITI) which dealt with a report produced by this organisation on the Irish tax system.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4 - Rules 4.1 and 4.2).

3. Complaint Summary

The complainant states that the interview misled listeners as, in the opinion of the complainant, the Irish Tax Institute (ITI) is not representing all taxpayers but is, in his opinion, a right wing body that represents the interest of large companies and wealthy individuals. The complainant states that to understand the focus of the organisation, it is necessary to watch the words it used in reaction to the last budget. The following was submitted by the complainant as coming from an ITI press release in respect of that budget and the complainant has highlighted what he considers to be key phrases in the statement:

“The personal tax burden continues to come down and the changes in USC bands and rates across the board reduce the tax on work which is key to growing our economy further and to encouraging work and employment”, said the President.

The complainant claims:

- Each of these phrases are what he describes as right wing triggers;
- It promotes the idea that tax is a burden rather than a contribution to a just society;
- It promotes the view that tax coming down is good, ignoring the fact that a reduction normally favours the wealthy;
- The focus on growing the economy ignores the contribution of tax revenue towards the funding of education and training;
- It promotes the view that reduced tax encourages work and employment.

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The complainant claims that the broadcaster misled listeners by treating the report of the ITI as if it is from an unbiased source. The complainant believes that the discussion should have been framed by highlighting that, in his opinion, most ITI members spend their time helping large corporations and wealthy individuals legally avoid as much tax as possible. The complainant states that as the ITI represents the wealthy, its views on the fairness of the tax system should have been challenged during the interview.

The complainant supplies various figures and percentages to support his claim above.

4. Broadcaster's Response

4.1 Broadcaster's Response to Complainant

The broadcaster states that the ITI may represent tax advisers to large corporations and wealthy individuals but its members also advise the self-employed and ordinary businesses in the national economy, employing Irish workers at different levels of income. The broadcaster states that its tax research covers the entire workforce, as was clear from the interview with the ITI representative. The broadcaster states that the research being discussed did not focus on the wealthy but was a systemic review of the income tax system and it covered all income tax payers. The broadcaster points out that it was specifically stated by the ITI representative that it was tax rates on workers earning the average wage of €35,000 that were among the most serious issues addressed in the ITI report. The broadcaster states that some sample details of the conclusions of its research show that it is not entirely focussed on high earners.

The broadcaster notes that the complainant quotes from the Institute's press release and wonders why he did not quote from the next paragraph which supported the outgoing Finance Minister's pledge to bring the marginal tax rate for all workers down to below 50%.

The broadcaster rejects the claim that the research being discussed on the programme could be categorised as biased towards any privileged group in society.

4.2 Broadcaster's Response to BAI

RTÉ refers to the response by the Series Editor of Morning Ireland to the initial complaint.

Morning Ireland is a news magazine programme whose primary focus is the eliciting of background information and perspectives from individuals and organisations who have an engagement with the news of the day.

The broadcaster states that such coverage routinely includes interviews with organisations such as the Irish Tax Institute, a representative and educational body for Ireland's Chartered Tax Advisers, and the Nevin Economic Research Institute, a research organisation supported by a number of unions. Both are interviewed on the assumption that they offer different perspectives, but that their research and those perspectives provide the listener with material to inform their own point of view.

The broadcaster states that respecting the integrity of both organisations, Morning Ireland makes no distinction between them when introducing their representatives in interviews such as the one complained of. In addition to the interview complained of, Morning Ireland interviews of 7th July 2016 and 27th September 2016 included a representative of the Nevin Economic Research Institute and a further interview of 11th October 2016 included a representative of the Irish Tax Institute.

The broadcaster states that the interviews have the purpose of bringing listeners differing perspectives on taxation policy and do so with transparency. The broadcaster states that the interviews are not structured or presented to the audience as the type of broad and contentious political debate which the complainant appears to wish to hear.

The broadcaster states that, as the BAI has noted on numerous occasions, the editorial independence of broadcasters entitles them to choose topics for coverage and the perspective on those topics.

5. Decision of the Executive Complaints Forum: Reject (Unanimous)

The Forum, having considered the broadcast and the submissions from the complainant and the broadcaster and, having also had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs) and the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4: Rules 4.1 and 4.2), has decided to reject the complaint.

In this regard:

- Having reviewed the interview, the Forum noted that this was a standard factual news interview on a report issued that morning and the presenter asked the Irish Tax Institute (ITI) Director to outline the outcomes of the report for listeners. The report focused on whether the progressive tax system [where a higher tax rate applies to higher income] in Ireland was fair. The presenter posed a number of questions intended to provide information to listeners on the findings of the ITI and examined how the concerns of the ITI might be addressed if one assumed that their analysis was correct. The presenter also noted that any change would have to take account of the current financial situation and limited scope for tax adjustments provided by the then forthcoming budget.
- The Forum found from its review of the programme that, as the focus of the interview was on the report of the ITI, the presenter therefore posed relevant questions in relation to the analysis included in the report. The Forum found that the interview was not a discussion on the organisation that produced the report. For these reasons, the questions highlighted by the complainant were not considered relevant by the Forum and their exclusion were not considered to demonstrate bias on behalf of the broadcaster. Overall, the Forum found the short interview to be fair, impartial and objective.

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- In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act, 2009 or the BAI Code of Fairness, Objectivity and Impartiality in Current Affairs in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Gerald O'Carroll

Ref. No. 121/16

Station:

RTÉ Radio 1

Programme:

Morning Ireland

Date:

14th October 2016

1. Programme

The complaint concerns Morning Ireland, which is a news and current affairs programme broadcast each weekday morning. The complaint refers to an interview with Ms. Elizabeth Bagley, Senior Advisor in the US State Department.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in news content); the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs – (Section 4: Rules – Section 4: Rules 4.1 and 4.2).

3. Summary of the Initial Complaint to the Broadcaster

The complainant states that during the interview with Ms. Elizabeth Bagley, Senior Advisor in the US State Department, the interviewee celebrated Mrs. Hillary Clinton as a mother and as an advocate for women and for children. However, the complainant states that Mrs. Clinton is a strong supporter of abortion rights for women and this was not discussed or examined critically during the interview.

The complainant also states that the interviewee was unchallenged when she made the remark that Mrs. Clinton faces an additional challenge in the US Presidential Election because she is a woman. The complainant further claims that there was a fawning note throughout the interview and not a hint of journalistic inquiry or desire to go outside of the 'feel good'. The complainant believes the interview employed strict censorship of anything but the 'pro-abortion' and 'pro-Democratic' perspective.

4. Broadcaster's Response

4.1 Summary of the Broadcaster's Initial Response to the Complainant

No response was received by the complainant.

4.2 Broadcaster's Response to the BAI

RTÉ state that they have no record of receipt of this complaint which appears to have been addressed to a non-existent complaints department in RTÉ Radio. There is a document described as 'email copy' attached to the complaint but there is no record at **complaints@rte.ie** of such an email being received or no evidence on the document of the date/time sent or the address used.

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RTÉ state that the interview was with Ms. Elizabeth Bagley. Ms. Bagley is a Senior Advisor in the US State Department and a supporter of Mrs. Hillary Clinton. The broadcaster states that there was speculation at the time that, in the event of a Clinton victory, Ms. Bagley would be the US Ambassador to Ireland.

The broadcaster states that the interview was an opportunity to explore the point of view of this Clinton supporter and potential ambassador. RTÉ notes that the BAI has on many occasions supported a broadcaster's entitlement to choose editorial subjects and the perspective on those topics. The broadcaster further notes the statement of the Compliance Committee that "there is no automatic requirement to challenge the views of a contributor on a current affairs topic."

The broadcaster maintains that the interviewee was clearly addressed as a senior supporter of US Presidential candidate, Mrs. Hillary Clinton, transparently described in her introduction as "longtime supporter and friend of the Clintons." The broadcaster also states that the issue of abortion was never addressed during the interview, nor was it deemed relevant to an interview that focused on the big picture.

While the complainant may have wished the topic of abortion to be raised from his personal point of view, there was no requirement to do so in the interests of impartiality or objectivity, again in the context of the broadcaster's entitlement to choose topic and perspective.

The broadcaster states that the allegation of adopting a "fawning" tone, and failing to pursue journalistic inquiry in the interview, is undermined by the facts, that the interviewer focused on the persistent questions about the candidate's personal wealth, both as an individual and as the wife of Mr. Bill Clinton, her connections with Wall Street, and the success of nomination rival Mr. Bernie Sanders in attracting away from her the support of millennials and of women in general.

5. Decision of the Executive Complaints Forum: Reject (Unanimous)

Having had regard to the broadcast, to the submissions from the complainant and the broadcaster and having also had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in news content) and the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4 - Rules 4.1 and 4.2), the Forum has decided to reject the complaint.

In this regard: -

- The Forum found that the item featured an interview with Ms. Elizabeth Bagley, former US Ambassador to Portugal and Senior Advisor in the US State Department. The interview focused on the upcoming Presidential election in the US and how well Mrs. Clinton was doing in the polls. The Forum found that the presenter introduced Ms. Bagley as a "long-time supporter and friend of the Clintons" and began the interview by posing the question as to why Mrs. Clinton had not been doing better in the polls.

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Further questions posed included whether Mrs. Clinton was liked by the electorate, her wealth and her connection to Wall Street etc., followed later by a question as to what damage Mr. Bernie Sanders, a competitor for the Democratic nomination, had done to Mrs. Clinton's campaign. By introducing Ms. Bagley as a "long-time supporter and friend of the Clintons", the listener would have been aware that she was coming from a particular perspective on the candidate. In line with this, the interviewee asked a number of questions about Mrs. Clinton's suitability as a candidate and her performance to date.

- The Forum found that the main focus in this interview was on the chances of Mrs. Clinton becoming the next President of the US and whether Ms. Bagley would be a possible candidate for the next US Ambassador to Ireland.

The Forum found that the focus of the interview was on the politics of the election as they pertained to Mrs. Clinton, such as her likeability amongst the electorate and issues of gender. Contrary to the complainant's belief that the interviewer should have examined critically Mrs. Clinton's views on abortion, the Forum found that the interview was not about abortion nor did it mention the topic. Therefore, it was not necessary to introduce the subject or critique with the interviewee any position that Mrs. Clinton may have on this topic and the absence of any comments in this regard were not considered by the Forum to demonstrate a lack of fairness, objectivity and impartiality.

- In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act 2009 or the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Niall Fitzgerald

Ref. No. 122/16

Station:

RTÉ Radio 1

Programme:

Drivetime

Date:

13th October 2016

1. Programme

The complaint concerns Drivetime, which is a news and current affairs programme broadcast each weekday evening from 4.30pm to 7pm. The complaint concerns an interview with the President of the Association of Secondary School Teachers Ireland (ASTI), regarding his Association's decision to take industrial action.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in news content); the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs – (Section 4: Rules 4.1 and 4.2).

3. Summary of the Initial Complaint to the Broadcaster

The complainant states that the presenter appeared to have a personal gripe with the ASTI taking industrial action and wonders if this approach was informed by whether the presenter would be affected by this industrial action. If so, the complainant believes the presenter should have declared an interest in the item to meet reasonable journalistic standards. The complainant maintains that journalists in RTÉ appear to be enthusiasts for the Lansdowne Road Agreement. He states that, however, they should know that even those unions that voted for it, did so very reluctantly and under what he describes as severe threats from the Government.

4. Broadcaster's Response

4.1 Summary of the Broadcaster's Initial Response to the Complainant

RTÉ states that the presenter's interview with ASTI president was conducted in the context of a protest by teachers outside Leinster House and the announcement of ballot results favouring industrial action. In that context, the presenter asked the obvious questions of the interviewee, including what the ASTI leadership would do next, what its Executive would recommend to members, what any action would mean for schools and why the ASTI was taking a position which differs from those of the other teaching unions.

The broadcaster states that, given that this was a one-to-one interview, but on an issue which concerns more than just the representative of the ASTI, the presenter represented the perspectives of the other effected parties. The broadcaster states that this was appropriate to provide balance and perspective.

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They also state that the presenter asked his guest - correctly - what he would say to parents, to students (especially in exam years) and to young teachers, all of whom would be worse-off as a result of the likely industrial action.

4.2 Broadcaster's Response to the BAI

RTÉ refers to the response by the Producer of Drivetime to the initial complaint.

The broadcaster maintains that the questioning by the interviewer of the President of the ASTI was entirely in keeping with Rule 4.22 of the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs.

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

The broadcaster states that the interviewer asked the questions to which listeners would have wished to hear answers from the President of a teachers' union and did so without expressing any views of her own whatsoever.

5. Decision of the Executive Complaints Forum: Reject (Unanimous)

The Forum, having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in news content) and the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4: Rules 4.1 and 4.2), has decided to reject the complaint.

In this regard:

- The Forum found that the presenter put various questions to the President of the ASTI to elicit the background to the industrial dispute that teachers represented by the ASTI had agreed to undertake. The interview was also conducted so as to establish what action the ASTI and its members would now take as a result of their decision to take industrial action. The Forum found that the President of the ASTI stated that the two main reasons for the dispute were pay scales for newly qualified teachers and supervision and substitution pay for teachers in his association. He went on to claim that the Government played a part in the dispute by not paying his members for supervision and substitution duties.

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- Robust and/or challenging questioning in the context of an interview does not necessarily constitute unfairness. The nature of this type of interview is such that the presenter plays a critical role in challenging the views of the interviewee in the public interest. In that context, the Forum found that, as an experienced interviewee, the ASTI President dealt with the questions put to him in a full and frank manner and he was given ample time to respond and was treated with respect throughout. The Forum found that the questions posed by the presenter were fair and reasonable and were put to the interviewee in a thorough yet polite manner. There was no evidence that the presenter expressed any personal view on the matter.
- In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act 2009 or the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Niall Fitzgerald

Ref. No. 123/16

Station:
RTÉ 1TV

Programme:
Six One News

Date:
13th October 2016

1. Programme

The complaint concerns the Six One News, broadcast each weekday evening from 6.01pm to 7pm. The complaint concerns an interview with the General Secretary of the Association of Secondary Teachers Ireland (ASTI), regarding his Association's decision to take industrial action.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in news content); the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs (Section 4: Rules 4.1 and 4.2).

3. Summary of the Initial Complaint to the Broadcaster

The complainant believes that the interview conducted by the programme presenter with the General Secretary of the ASTI, infringed the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs.

The complainant maintains that journalists in RTÉ appear to be enthusiasts for the Lansdowne Road Agreement. However, he believes they should know that even those unions that voted for it, did so very reluctantly and under what he describes as severe threats from the Government.

4. Broadcaster's Response

4.1 Summary of the Broadcaster's Initial Response to the Complainant

RTÉ states that the interview took place on the day that the ASTI announced that it would be taking industrial action.

The presenter asked the General Secretary of the ASTI what happens next and if the option would include strike action and the closure of schools. He sought a response from the General Secretary to a claim by the National Parent's Council that teachers were using students as pawns.

The broadcaster states that the presenter questioned him on why members of the ASTI had rejected an offer that was accepted by members of the Teachers Union of Ireland (TUI). He finished by asking the General Secretary of the ASTI on the probability of schools being closed. Having reviewed the interview, RTÉ states that this was fair questioning of the ASTI representative in the context of industrial action just being announced.

Broadcasting Complaint Decisions

4.2 Broadcaster's Response to the BAI

RTÉ refers to the response by the Editor of the Six One News to the initial complaint.

The broadcaster states that various aspects of the story were covered comprehensively and impartially, including the views of those considering industrial action as well as those potentially affected by the action.

5. Decision of the Executive Complaints Forum: Reject (Unanimous)

The Forum considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in news content) and the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4: Rules 4.1 and 4.2), the Forum has decided to reject the complaint.

In this regard:

- The Forum found that the topic was introduced on the Six One News with a report from Ms. Ingrid Miley on the background to the dispute, followed by interviews that included views from several parties, including the Minister for Education, the President of the National Association of Principals and Deputy Principals, a representative from the National Parents Council, as well as several secondary school teachers affected by low pay.
- The Forum found that during the interview with the General Secretary of the ASTI the presenter put it to him that other teachers' unions who had signed up to the Lansdowne Road Agreement were in line for a pay increase while his members would not be eligible as they had not signed up to that Agreement. The ASTI representative pointed out that the Lansdowne Road Agreement did not address the issue of unequal pay for newly qualified teachers and that was one of their main reasons for voting for industrial action. This was followed by a variety of other challenging questions put by the presenter and ably dealt with by an experienced interviewee.
- The Forum was of the view that the presenter put questions regarding the vote for industrial action by ASTI members to the General Secretary in a fair and impartial manner and was at all times courteous, yet robust, in his questioning. The Forum found that the interviewee had ample opportunity to respond to the questions and there was no indication, as suggested by the complainant, that the presenter showed any display of enthusiasm for the Lansdowne Road Agreement. The Forum found from its review of the interview that it was focused on establishing facts for its audiences on foot of the decision to take industrial action and the approach to questioning was informed by the interests of the audience.
- In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act 2009 or the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Fintan Ryan

Ref. No. 127/16

Station:
Newstalk 106-108FM

Programme:
Newstalk Drive

Date:
2nd November 2016

1. Programme

The complaint concerns the naming of an interviewee on Newstalk Drive as a Nobel Prize Winning Climatologist. Newstalk Drive is a current affairs programme broadcast each weekday from 4pm – 7pm.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in news content); the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs (Section 4: Rules 4.1, 4.2 and 4.17).

3. Summary of the Initial Complaint to the Broadcaster

The complainant states that the interviewee on this programme was described at the beginning and end of this programme as a Nobel Prize Winning Climatologist. The complainant maintains that the interviewee is not a Nobel Prize Winner and in fact is prohibited from describing himself as such by the Intergovernmental Panel on Climate Change (IPCC). The complainant further states that no participant in the IPCC was named by the Norwegian Peace Prize Committee as sharing the 2007 Nobel Peace Prize. The complainant quotes from IPCC:

“The Prize was awarded to the IPCC as organisation for 20 years of work, not just for the AR4 (Fourth Assessment Report of 2007), but for all the assessment reports and other activities. About 2000 people received a personalised copy of the Nobel Peace Prize certificate, namely Co-ordinating Lead Authors, Lead Authors, Review Editors, Bureau Members, Staff of the Technical Support Units and the Secretariat.”

The complainant states that it is misleading to suggest that any IPCC participant shared in the Nobel Peace Prize and in this regard he cites the IPCC Statement issued on 29th October 2012. This states:

"The prize was awarded to the IPCC as an organisation, and not to any individual involved with the IPCC. Thus it is incorrect to refer to any IPCC official, or scientist who worked on IPCC reports, as a Nobel laureate or Nobel Prize winner. It would be correct to describe a scientist who was involved with AR4 or earlier IPCC reports in this way: 'X contributed to the reports of the IPCC, which was awarded the Nobel Peace Prize in 2007.'"

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4. Broadcaster's Response

4.1 Summary of Broadcaster's Response to the Initial Complaint

The broadcaster acknowledged receipt of the complaint with a promise to respond. No follow up reply was received by the complainant.

4.2 Broadcaster's Response to BAI

The broadcaster apologises for the failure to adhere to the Code of Practice for responding to complaints which was down to human error and an internal miscommunications. The broadcaster states that the Nobel Peace Prize 2007 was awarded jointly to the Intergovernmental Panel on Climate Change (IPCC) and Mr. Al Gore;

"for their efforts to build up and disseminate greater knowledge about man-made climate change, and to lay the foundations for the measures that are needed to counteract such change."

The broadcaster maintains that as one of the contributing Authors and Review Editors of the Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC), the interviewee on the programme shared with several hundred other climatologists, the 2007 Nobel Peace Prize.

The broadcaster states that on his official bio, the interviewee is described as having been among those awarded the Nobel Peace Prize. He is also described as a 'recipient of the Nobel Peace Prize' on various event notices and media articles online.

Newstalk states that it conducted the above research in advance of his interview. The interviewee also received a personalised copy of the Nobel Peace Prize Certificate.

In light of the above, Newstalk does not believe that it was misleading, inaccurate or false to call the interviewee a Nobel-Prize Winning Climatologist. Newstalk carried out research and the information given to the listeners was based on that research. Newstalk claims that it did not say that he won the Nobel Peace Prize on his own.

The broadcaster states that as the information provided to listeners was based on the above research, it rejects the claim that it was in breach of section 4.1, that it was not fair, objective or impartial. The reason he was described as such was on foot of this research and was not expression of an opinion or any evidence of bias.

5. Decision of the Executive Complaints Forum: Reject (Unanimous)

Having had regard to the broadcast, to the submissions from the complainant and the broadcaster and having also had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs) and the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4 - Rules 4.1, 4.2 and 4.17), the Forum has decided to reject the complaint.

In this regard: -

- The Forum found that the interviewee was introduced as a “Nobel Prize Winning Climatologist” and not as a winner of the Nobel Peace Prize. Although the interview itself was not adversely affected by using “Nobel Prize Winning Climatologist”, the Forum was of the view that the introduction could have benefited from the inclusion of the word “team” to indicate that the interviewee was part of a wider team that won the Prize. Overall, however, the Forum was of the view that there was no concerted effort to mislead and the interview itself was conducted in an even-handed manner.
- In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act, 2009 or the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Brendan Whelan

Ref. No. 1/17

Station:

Newstalk 106-108FM

Programme:

The Pat Kenny Show

Date:

13th December 2016

1. Programme

The complaint refers to an interview on The Pat Kenny Show, which is a lifestyle/current affairs programme broadcast each weekday morning from 9am – 12pm. The interview concerned the use of the chemical Gammahydroxybutrate, or GHB and the problems this poses.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(b)(harm and offence); the BAI Code of Programme Standards - Principles 1 (Respect for Community Standards), 2 (Importance of Context), 3 (Protection from Harm) and 4 (Protection of Children).

3. Summary of the Initial Complaint to the Broadcaster

The complainant states that the interview included descriptions of 'chemsex' and the effects on gay men which he states were inappropriate for broadcast at 11am in the morning. The complainant believes children could have been listening at this time of day. The complainant states that he found the language offensive to listen to. The complainant also believes that there are more appropriate broadcasting time-slots for this type of content. The complainant states that while Newstalk cannot control its audience or who may be listening, it can control what topics are covered and who is chosen to speak on them.

4. Broadcaster's Response

4.1 Summary of Broadcaster's Initial Response to the Complaint

The broadcaster states that The Pat Kenny Show regularly contains topics which address a diversity of tastes and interests which exist within listening audiences and aims to facilitate and cater for this diversity. The broadcaster states that the piece was well-handled with a mature approach and at no point did the discussion become gratuitous. The broadcaster states that it was clear from the outset what the subject matter would be.

Newstalk acknowledges that on occasion young children may be within ear shot of a topic that may not be appropriate. It also noted that only 2.28% of Newstalk's total audience is under 18 years of age which makes it highly unlikely that a significant number of children should be listening. However, noting that children might hear the conversation, the broadcaster states that the programme included two extensive warnings in advance of the interview. These allowed listeners to make an informed choice in advance of the item being broadcast.

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The broadcaster states that the use of chemsex is a real problem and is of great concern to the gay community in Ireland. They state that the presenter noted at the end of the interview that the topic was “a difficult and somewhat sensitive subject for this hour of the day but hopefully all the sensitive ears are in school and those who are not are too young to understand”.

4.2 Broadcaster’s Response to the BAI

Newstalk states:

- The Pat Kenny Show is Newstalk’s mid-morning news and current affairs programme and regularly covers a wide variety of news and current affairs topics in a comprehensive and forensic manner. The show’s remit is to cover topics which address a diversity of tastes and interests, which exist within listening audiences. The broadcaster states that this does not always make for easy or comfortable listening but that should not result in subjects that are in the public interest and having significant impact in society being absent from the airwaves.
- The broadcaster states that the show featured an item about a physiological and sexual problem faced by men and the use of the chemical GHB to counter its effects.
- The broadcaster states that, as outlined in its initial response, the use of GHB is an issue of considerable concern. They state that the national drug treatment centre is running GHB clinics and people have been referred to Beaumont for GHB detox, as it can be addictive and accompanied by withdrawal symptoms over a sustained period.

The broadcaster notes that there was a chemsex discussion in Dublin Castle in June as part of the Gay Sex Forum and also that the gay men’s health service on Baggot Street is carrying out a survey of clients. They also state that it is of concern to the Gay Switch Board Ireland and to the Ana Liffey drug project, who are involved at the moment in trying to set up legalised safe injecting rooms. The community and drug agencies are saying “it’s here and it is happening... You can die ... it is a difficult subject; it is a difficult conversation but we really do have to have it or people will die.”

- Given this context, the broadcaster states that it considered the topic of sufficient importance to cover on the show. They state that the topic would fall within the expected style and treatment of the programme and the likely expectations of the audience as to what the programme would contain. They further believe that the treatment of the piece was well handled with a mature approach and at no point did the discussion become gratuitous.
- Newstalk acknowledges that on occasion young children may be within ear shot of a topic that may not be appropriate and with this in mind the programme included two extensive warnings in advance of the interview which referenced:-

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- The dangerous Chemsex scene that is gripping the gay community in Dublin.
- How a drug normally used as an industrial cleaner is emerging in gay sex parties in Dublin.

Newstalk believes these very clear aural warnings allowed listeners and guardians to make an informed choice in advance of the item being broadcast, providing sufficient notice as to the content and providing ample opportunity for listeners to change channel.

5. Decision of the Executive Complaints Forum: Reject (Majority)

The Forum considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the Broadcasting Act 2009, Section 48(1)(b)(harm and offence); the BAI Code of Programme Standards, Principles 1(Respect for Community Standards), 2 (Importance of Context), 3 (Protection from Harm) and 4 (Protection of Children), the Forum has decided to reject the complaint.

In this regard:-

- It was the view of the Forum that the topic under discussion concerned the use of the chemical Gammahydroxybutrate or GHB and the problems this poses for the sexual health of the gay community.
- The Forum was of the view that, in general, this programme deals with a diverse range of subjects and the audience would be aware that difficult subjects such as this can feature from time to time. The Forum found that the interview with Mr. Stuart Clarke, Deputy Editor Hot Press, focused on the use of GHB by the gay community in Dublin and the detrimental effects of the drug. The Forum considered the topic in line with the editorial focus of this programme.
- The Forum found that this was a factual and informative interview and was handled with due care by the presenter given the content, which was quite descriptive at times. In addition, the Forum would acknowledge that some members of the audience could find the subject matter disturbing. However, the Forum was of the view that the inclusion of the item served a purpose from a public health and information point of view.
- The Forum did not agree with the complainant that children were likely to have been a significant part of the audience. At the same time, the Forum did not agree with the broadcaster's submission that audiences were provided with warnings about the content. Rather, the Forum found that the item was flagged in advance by the presenter on a number of occasions, including at the beginning of the discussion. Given this, and that it was broadcast during adult listening times, the Forum was of the view that, on balance, the broadcaster had provided sufficient information for most audience members to make a decision as to whether to listen.

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Notwithstanding this, some audience members may have been offended by the content and the broadcaster is advised to consider whether additional audience information should be provided in future when dealing with a topic such as the one that was the focus of the interview.

- In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act, 2009 or the BAI Code of Programme Standards in the manner specified by the complainant. Accordingly, the complaint has been rejected.

