



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

Broadcasting Authority of Ireland

Broadcasting Complaint Decisions

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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, 6 complaints were considered and rejected by the Compliance Committee of the BAI. The decisions of the Compliance Committee were reached at its meeting held 29th March 2017.

Broadcasting Complaint Decisions

Rejected by the Compliance Committee

Complaint made by: Mr. Gary Delaney

Ref. No. 98/16

Station:

Programme:

Date:

RTÉ One TV

Eircode Public Announcement

19th July 2016

RTÉ Radio 1

1. Programme

The complaint concerns an 'Eircode' public service announcement broadcast on RTÉ television and radio over the July/ August period in 2016. The date of the 19th July is chosen as an example of the material broadcast.

2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1) (b) (harm & offence); the BAI Code of Programme Standards, Principle 3 (Protection from Harm) and Principle 6 (Protection of the Public Interest).

3. Summary of Initial Complaint to the Broadcaster

The complainant states that the announcement encourages the public to use Eircode when calling emergency services. He states that the use of national ambulance service imagery and language in the announcement gives the false impression that Eircode is delivered in the interest of public safety. The complainant further states that public safety is the responsibility of Government and Government agencies and this announcement has no logos or endorsement of any kind from a Government Department or responsible agencies i.e. in this case the HSE/National Ambulance Service/Fire Service etc.

The complainant states that Eircode is a trademark owned by Capita PLC., a commercial organisation that he states has no mandate for public safety. He states that it is currently contracted to the Department of Communications, Climate Action and the Environment to deliver a postcode service and receives a commercial reward, including bonuses, based on usage. Therefore, while the announcement gives, in the complainant's opinion, the impression that it is delivered in the interest of public safety, it is in fact a purely commercial undertaking. The complainant states that it furthermore gives the impression that the ambulance service would react entirely on the basis of an Eircode. The complainant states that this is not true as the ambulance service control would go through a procedure of address/location verification whether the caller gives an Eircode or not.

The complainant believes that the advert also fails to warn users that there have been, in his view, many reports of Eircodes pointing to the wrong property and the announcement therefore does not warn users to check that the code they were given is actually correct. He states that the announcement also claims that the emergency services will be able to respond quicker. The complainant states that an Eircode, if correct, can only help to identify the address quicker, but has no verified overall influence on emergency response times. The complainant states that Eircode has no influence whatsoever on emergency calls to non-postal addresses.

The complainant states that normally, only Government agencies engage in public announcements and that this advert gives the impression that it is a public service announcement but lacks any endorsement from relevant agencies.

The complainant adds that the television version of the announcement shows that “Public Service Announcement” appears only in small font for a mere 4 seconds at the start of the advert when the audience would not be focused on it. He states that there is no verbal reference to this term or to any public organisation taking responsibility for it. He states that the radio version which had the same prominence and which has exactly the same content, made no reference at any point to being a Public Service Announcement.

The complainant states that it is his belief that the Eircode ambulance advert was not a Public Service Announcement at all. He further states that he does not believe that the announcement is a bona fides “service to the public” and therefore constructed with the standards one might expect of such an announcement and especially one connected with public safety and the business of saving lives. It is his view that the announcement is a commercial message and should be assessed as such further to the provisions of the BAI General Commercial Communications Code.

The complainant challenges the broadcaster’s claim that this is a Public Service Announcement. He states that the announcement appears to have been accepted at the “behest of Government” and not because of an assessment of the content undertaken by the broadcaster. The complainant states that the broadcaster provided no evidence of any communication on the matter from any member of Government to support this claim other than correspondence from and with the Department of Communications in September 2014 regarding this announcement.

4 Broadcaster’s Response

4.1 Summary of Broadcaster’s Response to the Initial Complaint

RTÉ state that it has run the notice at the behest of the Government. This notice, as opposed to previous advertising purchased by or on behalf of Eircode, is directed towards public health and safety. The broadcaster states that it is aware that this promotion was endorsed by the National Ambulance Service (NAS) before it went to air.

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The broadcaster states that, although the complainant may be more aware than the broadcaster, of complications, exceptions or indeed errors in the Eircode system, this would not, nor should it, prevent the publication of a service that those charged with public safety consider helpful and a positive development.

4.2 Broadcaster's Response to BAI

RTÉ refers to the responses by the Head of Commercial Operations RTÉ Television to the initial complaint and the email from RTÉ Head of Broadcast Compliance to BAI Complaints, 13th October 2016.

RTÉ refers also to correspondence supplied to the BAI in support of its adjudication process. This includes correspondence between RTÉ and the Department of Communications in respect of the public service nature of the announcements broadcast and correspondence from the National Ambulance Service.

The broadcaster states that this Public Service Announcement, clearly labeled on-screen as such, was broadcast free of charge in the interests of informing the public of the contribution of the use of Eircode to their location by the emergency services. They state that it may be noted, in reference to 2014 correspondence between RTÉ and DCENR, that these public service announcements took longer than originally expected to reach broadcast.

The broadcaster refers to Principles 3 and 6, as evidenced in correspondence from the Chief Ambulance Officer-Control & Performance Manager, National Ambulance Service, that this public service announcement was both in the public interest and had a positive impact on the public good.

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

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 3 (Protection from Harm) and 6 (Protection of the Public Interest), the Committee has decided to reject the complaint.

In this regard:-

- The Committee was satisfied that the announcement constituted a public service announcement rather than a commercial communication. This view was informed by a number of considerations. In particular:-
 - no charge was made or fee paid in respect of the announcement;
 - the announcement was broadcast outside the daily allowance for broadcast advertising of RTÉ One;

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- it had several features of a public service announcement in that it promoted the perceived health and safety benefits of using Eircode, specifically in relation to accessing ambulance services and the broadcast was supported and endorsed by the National Ambulance Service;
 - the announcement did not promote the use of a service in respect of which a user would incur any charge or economic cost, and;
 - the announcement was identified as a public service announcement in television broadcasts.
- Turning to the content of the announcements, the Committee found that they presented a scenario in which an Eircode could prove useful in an emergency. The Committee noted that the use of Eircode in emergencies is supported by the National Ambulance Service and that Eircode has been included in their emergency response systems. In view of this, the Committee found that the scenario presented in the announcement was not one that could be considered to be likely to cause harm or was evidently not in the public interest.
 - In view of the above, the Committee has found that the announcement 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.

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Complaint made by: Mr. Declan Askin

Ref. No. 128/16

Station:

Programme:

Date:

Newstalk 106-108FM

The Pat Kenny Show

7th November 2016

1. Programme

'The Pat Kenny Show' is a lifestyle/current affairs programme broadcast each weekday morning from 9am – 12pm. The complaint refers to details and comments on a report from the Organisation for Economic Co-operation and Development (OECD) on Ireland's education system and educational attainment levels.

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 & Impartiality in News and Current Affairs - Section 4: Rules 4.1 and 4.2.

3. Summary of Initial Complaint to the Broadcaster

The complainant states that he believes the item on the OECD report was not handled or presented in an objective and impartial manner and that it included an expression of the presenter's own views. The complainant further states that the presenter began by saying he wanted to talk more about this 'OECD thing' that he had spoken to Mr. Ed Byrne [President of the Association of Secondary Teachers Ireland – ASTI] during an interview earlier in the programme. The complainant notes that the presenter stated that the report "dates from Jan 2016". The complainant states that the presenter then went on to purportedly read facts from this 2016 report. The complainant states that this is not objective because on listening to him, he appeared to actually be reading excerpts directly from an Irish Times' newspaper article.

The complainant states that the presenter also failed to point out other objective facts from the report, such as Ireland having similar literacy levels as France, Canada, Austria, Northern Ireland and Germany. He states that the presenter concluded his coverage of the item by saying that the low reported literacy rates "...is down to a massive failure in literacy and numeracy on the part of secondary school teachers."

The complainant states that nowhere in the original report referred to, or in the newspaper article itself, is this conclusion or any conclusion relating to the competency of Irish secondary school teachers, reached or even suggested.

4. Broadcaster's Response

4.1 Summary of Broadcaster's Response to the Initial Complaint

Newstalk 106-108FM states that the OECD report was presented with due accuracy, having regard to the circumstances and the facts known at the time of preparing and broadcasting the content according to BAI Code of Fairness. They further state that, earlier, the OECD report was introduced to the on-air conversation between the presenter and Mr. Ed Byrne of the ASTI following a text message from a listener. The text read "We are at the bottom of the OECD league in numeracy and literacy and 21st place out of 23..."

Newstalk further states:

- The presenter commented on the OECD report "I have just got this from my producer, we are third from the bottom in the OECD. England and Northern Ireland are below us in literacy and mathematics. The best are Japan, Korea and the Netherlands".
- The presenter went on to explore the report with Mr. Byrne and suggested a variety of reasons for the results "...we are down there, whatever the cause, lack of investment, bad teaching, bad curriculum, whatever it might be. If we are that low, we are doing something that is not right".
- Mr Byrne was then afforded the opportunity to comment on the OECD figures stating "I am not sure about them [the OECD figures]...our literacy has improved and it is reasonably good..."
- Turning to broader issues of teaching, the presenter then went on to read a text from a partner of a teacher again showing objectivity:

"My wife is a teacher; we have three small kids. She regularly stays up to 12 or 1am correcting children's homework and projects most of which they don't really care about what they are writing in these submissions.

She gets verbally abused by children regularly and when she contacts parents she gets it even worse. She feels physically sick coming to parent teacher meetings and has to walk away in tears from parents. She is one of the most professional people I know. It's an incredibly hard job and it is a calling. I wouldn't do it for diamonds.

Remember teachers have to teach children at their most difficult time in their lives and sometimes parents find it very hard to deal with their own children."

- The presenter objectively read the text above and continued to show objectivity by saying "...I would concede that, there are some teaching jobs where it's a war zone. Absolutely."

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- The broadcaster states that Mr. Byrne was given the opportunity to respond and did so by saying:-

“...There are all sorts of teaching jobs and I would say that those who might teach in easier circumstances might find their own pressures. Those who work in those situations yes it is a very, very difficult job and it requires a great deal of fortitude and I always say those two weeks before children break you can start to see that they are ready to go”.

4.2 Broadcaster’s Response to 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. Guests coming on the show and listeners both know this and would expect nothing less from as professional and experienced a broadcaster as Mr. Pat Kenny.
- On the day in question the presenter conducted a lengthy interview with Mr. Ed Byrne from the ASTI about upcoming strikes. The interview was wide ranging and gave Mr. Byrne every opportunity to answer criticisms raised both by the presenter and messages from listeners. The broadcaster states that the interview was forthright but only so as to facilitate the expression of the contributor’s opinion and to reflect the views of those who could not or chose not to participate in the content. The OECD report that the complainant refers to was first introduced in this interview with Mr. Byrne and Newstalk believes it is inappropriate to consider the subsequent commentary on this report later in the programme in isolation from this.
- During the course of the interview, Mr. Byrne was given significant opportunity to respond to the report and share his analysis of it. The subsequent reference to this report after the 10am news was in response to further text messages and listener comments on the issue to the programme. At this point, it was necessary to recap on the detail of the report to give listeners the full context of the comments. The broadcaster states that the presenter’s commentary around this was by way of analysing and drawing conclusions from the various listener perspectives as opposed to expressing a partisan personal view as suggested by the complainant.
- It is Newstalk’s view that the report was presented with due accuracy, having regard to the circumstances and the facts known at the time of preparing the content. The report that was referred to, was as reported, published in January 2016. The broadcaster states that at no point did the programme suggest that the figures were based on 2016 statistics as the complainant appears to allege.

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It is reasonable to expect that listeners to Newstalk and The Pat Kenny Show would be capable of deducing that a report published in January 2016 could not be based on 2016 figures and that they would be aware that it is common for there to be a time lag between the publication date of such a report and the data contained therein.

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

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 & Impartiality in News and Current Affairs (Section 4: Rules 4.1 and 4.2), the Committee has decided to reject the complaint.

In this regard:-

- The Committee had regard to the programme as a whole and the contributions made by the President of the ASTI, the presenter and contributions by text. In this regard, the Committee found that the discussion dealt with a range of topics and that it was undertaken in the context of a decision by ASTI members to undertake industrial action, which resulted in the closure of schools on the day that the interview was conducted.
- The Committee noted that the interview was, at 30 minutes in duration, extensive and provided the representative of the ASTI with the full opportunity to address the questions put forward by the presenter but also by listeners to the programme. It was a contribution from a listener that gave rise to the brief discussion on the literacy and numeracy levels of Irish children. This listener questioned the effectiveness of teachers on account of the results of research on literacy and numeracy in Ireland. This point was put to the interviewee by the presenter and the interviewee was afforded the opportunity to rebut the listener's views that school children in Ireland had low literacy and numeracy skills in comparison to other countries.

The presenter returned to this topic following the conclusion of the interview and did so as a result of a comment from a listener who teaches in a university and who stated that many students that he teaches have poor literacy and numeracy skills when entering university. The presenter then quoted from the OECD report which noted that Ireland ranks low amongst OECD countries in numeracy and literacy skills and the recommendation of the report writers that children with poor literacy and numeracy skills should not transition directly into university from secondary schools but should undertake post-secondary learning to improve these skills. It was in this context that the presenter then commented that the fault for poor numeracy and literacy skills must rest with secondary school teachers.

- In considering this complaint, 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, particularly in ensuring that audiences have access to a wide variety of views on the subject of the programme or item.

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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 while also ensuring that programmes are not undertaken in a manner where a presenter articulates a partisan position on a matter which is of current public debate or controversy. As such, while presenters are not prohibited from expressing a personal view, there are limits placed on them in practice.

In assessing whether a presenter is articulating a partisan view, 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. In the case of the current complaint, the Committee was of the view that while some listeners may not have agreed with the presenter's comment on the role of secondary school teachers with respect to literacy and numeracy, a programme presenter has a right to express his/her views. In instance, and having regard to the fact that the views of teachers, as represented by the ASTI interviewee and by texts, were given an extensive airing, the Committee concluded that the presenter's comments were the expression of his personal opinion rather than an articulation of a partisan position.

- 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 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. Michael FitzGerald

Complaint Ref. No. 131/16

Station:

Programme:

Date:

RTÉ Radio One

The Marian Finucane Show

9th October 2016

1. Programme

'The Marian Finucane Show' is a magazine style programme, including elements of current affairs, lifestyle and human interest topics. The programme is broadcast every Saturday and Sunday morning from 11am to 1pm. The complaint concerns an interview with Producer, Director and Photographer, Mr. John McColgan and contributions from a panel dealing with the ongoing conflict between the Palestinian and Israeli States.

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 & Impartiality in News and Current Affairs (Section 4: Rules 4.1 and 4.2).

3. Summary of Initial Complaint to the Broadcaster

The complainant states that the programme presenter on this date was Ms. Áine Lawlor and the panel discussing the Palestine/Israeli conflict consisted of journalists, politicians/former politician, a University Lecturer, a Managing Partner in PWC. The context for the discussion was Mr. McColgan's recent visit to the West Bank and Gaza where he took photographs of those affected by the conflict. The complainant states that the interviewee explained that the photographs were for an exhibition in aid of Trócaire, taking place in the RHA Gallery, Dublin. The complainant states that the interviewee is not a political journalist and his photography, by his own admission, is just a hobby. In that context, the complainant comments that statements made by this interviewee on controversial topics, should be treated with a large degree of caution.

The complainant states that in the absence of anyone, on the panel or in the studio, to articulate a Jewish/Israeli perspective on the subject under discussion, the responsibility for ensuring fairness became that of the presenter.

The complainant maintains that the means available to the presenter in such circumstances, include, questioning the validity, veracity and integrity of a guest's statements and acting as 'Devil's Advocate' by offering an alternative analysis of the subject under discussion. The complainant states that the presenter, in moderating the discussion, failed to draw on these approaches and failed to ensure the programme was fair, objective or impartial.

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The complainant states that even a cursory listen to the programme would oblige reasonable listeners to conclude that all of the interviewee's pronouncements were knowledgeable, based on credible evidence or derived after objective analysis. The complainant states that at no point during the segment did the presenter call into question the accuracy of the interviewee's contribution or query his motives for embarking on such a late in life career move. The complainant maintains that the presenter's failure to question the interviewee ensured that minimum standards of fairness were not complied with. The complainant believes that this omission could lead most reasonable listeners to conclude that Jewish/Israeli interests did not warrant parity of esteem with those of their Arab counterparts.

The complainant maintains that the interviewee betrayed a lack of objectivity by consistently offering information that advanced what the complainant states was his agenda of Arabs as 'good guys' and Jews/Israelis as 'bad hombres'. The complainant states that this sometimes took the form of commission and other times omission, with fleeting importance being attached to accuracy. The complainant provides a range of examples in his submission. The complainant notes that the interviewee insisted on having the final say on the segment when claiming "it's definitely apartheid."

The complainant believes that the interviewee is at his most unfair when referring to Jews who publicly opposed Israeli government policies in the disputed territories. Jews who sustained his agenda were presented as informed and credible commentators. However, the complainant states that these commentators only represent one view amongst Jews. The complainant states that in this area the interviewee takes sides in domestic differences, always siding with those who agree with his presumptions. The complainant states that this phenomenon is best illustrated by reference to a number of individuals that the interviewee mentioned during the show.

These are: Mr. Gideon Levy, an Israeli journalist who the complainant states is highly critical of government policies and actions in the West Bank, particularly in relation to settlements; Ms. Ronit Lentin, an Israeli born, Irish academic who the complainant states has, over many years, been highly critical of government policies and actions in the West Bank, particularly in relation to settlements, and; Mr. Dov Khenin, who the complainant describes as an extreme left Israeli politician, and Knesset deputy.

The complainant also makes reference to the panel's contributions to the programme and also the manner in which the presenter moderated the debate.

In the case of the panel:-

- The complainant states that, in his opinion, one of the panellist, Ms. Nora Owen, a former Minister for Justice, seemed to mistake opinion for fact, particularly when offering unsolicited comments during the programme. He states that she opined about young Israelis "but they do have to do National Service all the young people..." The complainant maintains that anyone who studies Israeli politics would be fully aware the matter of Haredi (ultra-orthodox) exemptions from military service is a major issue of contention in the country.

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- The complainant also states that Ms. Owen's, in an unsolicited comment, followed a factual inaccuracy with what he considers to be potentially the most offensive contribution of the segment. He states that less than 10 days after Nobel Peace Laureate, Mr. Shimon Peres was lauded by world leaders at his funeral, Ms. Owen's volunteered "I was very hopeful with Shimon Peres whom I did meet way back, and I mean, he got a huge send off and people felt – but then he went rogue too when eh and he did terrible things..."

In the case of the presenter as moderator:-

- The complainant states that a moderator has an obligation to ensure that any opinions or data offered to listeners are factually accurate. The complainant states that the principal guest advanced opinions and statistics which the complainant believes were personal rather than objectively verified. Whether it was in relation to duration of the occupation, levels of dwellings approved, numbers of combatants killed or credibility of referenced commentators, the complainant states that this interviewee was allowed to substantiate his analysis with flawed information.

The complainant states that on this basis, by most objective criteria, the presenter failed to ensure designated standards for accuracy were maintained during this segment. The complainant states that it is not his intention to be critical of the presenter for something she did not say. However, he believes that she unambiguously crossed a line from objective moderator to collaborator when she told the panel, and listeners:-

- "you mentioned Gideon Levy, I did a pre-recorded interview with him for the news recently; as it happened other news stories, em, took precedence, it didn't go out. He was... it was one of the most depressing interviews I've done in a long time; the wall is working for a lot of people on the Israeli side of the wall... the economy is booming...and he's getting death threats."

- The complainant states that a security barrier was erected during the 2nd Intifada to prevent suicide bombers murdering innocent Israeli civilians. He states that the presenter's unsolicited comment that describes a security measure introduced to protect civilian lives as 'depressing', was, in his view an extraordinary illustration of journalist bias. According to the complainant, this statement, coupled with how she handled the contributors to the programme discussion would lead most reasonable listeners to conclude that the presenter was endorsing the opinions of her guests.

4. Broadcaster's Response

4.1 Summary of Broadcaster's Initial Response to the Complaint

In response to the question as to why Mr. McColgan was a guest on this show - and indeed the query as to his credentials to speak about Middle Eastern history, the broadcaster states that he was invited on the show following his recent trip to West Bank, Gaza and Jerusalem with international aid organisation Trócaire. The broadcaster states that the interviewee is – largely through his Riverdance connection – well-known nationally and listeners would be well aware of his level of expertise.

The broadcaster states that the interviewee in question made it clear from the outset that he was invited there by Trócaire. He went to take photographs of the people he met for the purposes of an exhibition. He wasn't there as a journalist or as someone whose job it is to report on the armed conflict taking place in that region.

The broadcaster states that it was not meant to be a history lesson or a comprehensive overview of Israel and Palestine since 1948.

The broadcaster states that the complainant also complains about the inaccuracy of the interviewee's figure of 2,000 casualties in 2014. The broadcaster states that there were more than 2,300 people killed in Gaza during the 2014 War, Operation Protective Edge. There were 66 Israeli soldiers killed and six Israeli civilians, as well as a citizen of Thailand. All of those deaths are to be regretted but even if, as asserted by the complainant, 1,200 of the Palestinians who died in Gaza were combatants, 1,100 civilians is a significant number of people.

The broadcaster states that the interviewee doesn't, as asserted, compare modern Israel with apartheid South Africa. He was not referring to what happens within the state of Israel, but what happens in the occupied territories. In so far as he refers to Israel, he represents it as a place tolerant of dissent. Indeed, the record of Mr. Dov Khenin - as a parliamentarian in the Knesset - is very impressive on environmental issues and workers, children's and women's rights.

The broadcaster states that throughout this conversation the presenter remained objective, asking open-ended questions. In reference to her comment at the end about her experience with author Mr. Gideon Levy, she was not making a value judgement on why the wall was built. She described the interview as depressing, not as, the complainant asserts, the security which the wall provides to Israel. She was alluding to the fact that the wall has divided much of the state of Israel from the reality of what goes on in the occupied territories. She was expressing a view based on her vast experience as a journalist who has covered the issue on several occasions. It is also a fact that the 'wall' has been found to be in breach of international law by the International Court of Justice and condemned by the United Nations.

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The complainant refers to Ms. Nora Owen's comment on Mr. Shimon Peres. The broadcaster states that he did indeed receive the Nobel Peace Prize alongside the Chairman of the Palestinian Liberation Organisation, Mr. Yassar Arafat. That was in 1994. In 1996 he launched Operation Grapes of Wrath, the extensive bombing and shelling of Lebanon, including the shelling of the UN compound in Quana. He later left the Labour Party to support Mr. Ariel Sharon's Kadima Party and then became the President of Israel. In his early days he was one of the architects of the disputed settlements that Mr. McColgan spoke about.

While Mr. Perez was without doubt a statesman and was buried as such, like many statesmen - including the one who shared the Nobel Prize with him - his career had its moments of controversy.

The broadcaster states that any discussion on the Israel/Palestinian conflict is by definition controversial. It is a subject which will be returned to again, from different perspectives.

4.2 Broadcaster's Response to BAI

RTÉ refers to the response of by the Series Producer of The Marian Finucane Show to the initial complaint.

The purpose of the interview and discussion with the photographer and TV and theatre producer, Mr. John McColgan, was to explore the background to an exhibition of photographs taken by Mr. McColgan during a trip to West Bank and Gaza, facilitated by the aid organisation Trócaire. This was plainly stated for the information of listeners who therefore will not have been mystified as to the nature of the initiative, including its goal of raising money for women and children who are "being abused in [those] human rights areas."

In this context, RTÉ notes the consistent support of the BAI Compliance Committee for a broadcaster's entitlement to choose topics and stories for coverage and the perspective on those topics and stories.

The broadcaster states that the interviewee made it clear that he did not travel as, or claim to be, a journalist, or indeed historian, politician or diplomat and therefore was not treated as "an authoritative commentator" or as an "objective commentator" as the complainant alleges; he was present to relate his experience. A listener could not possibly have been misled in respect of the nature of his involvement or the background to it, as is alleged in the complaint.

Regarding the complainant's uses terms such as 'Jewish' and 'Arab'; the broadcaster states that it may be noted that these are not terms generally used in the broadcast (the exceptions being when describing the religious qualification for immigration to Israel and referring to a writer's Jewishness in the context of his criticisms of Israel). Also, the complaint uses the term 'Jewish/Israeli' which suggests that the two words are synonymous and may also imply that anti-Semitism is inherent in any criticism of the state of Israel or its actions.

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The broadcaster states that the human interest focus of the interviewee's photography exhibition and of the broadcast was the lived experience of those living in West Bank and Gaza; it was not a discussion of the history or politics of the Middle East or related diplomacy and not presented or framed as a current affairs item.

The broadcaster states that insofar as it touched on these matters, its primary concern was the necessity for negotiation which would lead to peace in the region and better lives for its inhabitants. In a nuanced account of his personal experience on his visit, the interviewee also referred to opposition by Israelis to Israeli government policy and the distinction (quoting Irish academic Ms. Ronit Lentin) between such opposition and anti-Semitism.

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

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 & Impartiality in News and Current Affairs (Section 4: Rules 4.1 and 4.2), the Committee has decided to reject the complaint.

In this regard:-

- The Committee noted that the context for the interview was a then forthcoming exhibition, in the Royal Hibernian Academy, of photographs taken by Mr. John McColgan during his visit to the West Bank, Gaza and Jerusalem. The Committee was of the view that audiences would have understood that the contributor was not a political commentator nor was he a journalist and that the focus of the discussion was not on the core issue of the conflict between the states of Israel and Palestine but rather on his personal reflections on visiting Palestine and Israel and the impact on Palestinians of the conflict between these two states, as he understood it. The manner in which the discussion was undertaken was therefore framed from this perspective.
- The Committee also noted that while the perspectives provided were focused on the Palestinian experience, they were also largely factual. In this regard, the discussion examined the impact of the occupation of Palestinian land by Israelis, including the impact of illegal settlements, as well as the effect of the conflict on the day-to-day lives of Palestinians, who were described as living in 'an open prison'.

The programme also highlighted the views of Israelis who are critical of the policies and practices of their government in terms of Palestine, as would be expected in an item examining the Palestinian perspective. Given the predominantly human interest focus of the item and its focus on the experience of Palestinians, the comments by the contributors were focused in a similar manner.

Broadcasting Complaint Decisions

- In considering the complaint, the Committee had regard to the fact that there is no automatic obligation to balance contributions on a programme with an alternative guest or with alternative perspectives. It is therefore legitimate to examine a topic, such as the one included in this programme, from a particular perspective. While there is evidently another perspective on the conflict between Israel and Palestine, the Committee did not agree that it was necessary to examine this other perspective in a context where the content had a predominantly human interest focus and having also regard to the fact that the issues relating to the conflict would already have been familiar to audiences.
- Regarding the presenter, the Committee noted that her approach reflected the focus of the discussion and the Committee was not of the view that her focus on the Palestinian aspect of the conflict demonstrated bias but was rather the natural result of the focus of item.
- In view of the above, the Committee did not agree that the programme infringed 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: The Irish Bread Bakers Association

Ref. No. 02/17

Station:

Programme:

Date:

RTÉ One TV

'What Are You Eating?'

20th October 2016

1. Programme

The complaint concerns a repeat broadcast of 'What Are You Eating?' (Episode 4), which is a factual-based programme which ran over four episodes in early 2016 and was repeated later in the year. The complaint concerns an element of the programme dealing with bread and nutrition.

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 & Impartiality in News and Current Affairs – Section 4: Rules 4.3, 4.8 and 4.19.

3. Summary of Initial Complaint to the Broadcaster

The complainant states that they had written to RTÉ prior to a planned repeat of episode 4 of the Show in September 2016, dealing with bread making, outlining their concerns regarding the programme. The complainant states that RTÉ decided not to repeat the programme in September on receipt of their complaint letter. The complainant states that on October 20th, RTÉ, without any communication with the Irish Bread Bakers Association (IBBA), rebroadcast episode 4 of the programme without any corrections or highlighting the inaccuracies contained in the programme.

The complainant sets out three elements of the programme that they wish to be considered as part of their complaint.

Comment by Darina Allen

- The complainant states that the programme referred to the sliced pan category of bread in a wholly unfair and biased manner. They state that Ms. Darina Allen stated in the programme that if she were Minister for Health the first thing she would do would be to ban 'squishy sliced pan'. The complainant states that Ms. Allen's comments were unfairly critical of what they state is a nutritious staple of the Irish diet. The complainant states that Ms. Allen conveyed the idea that a sliced pan was the most detrimental product on the market affecting the country's health and should be categorised with other illegal substances banned in Ireland. They state that Ms. Allen was not asked by the presenter to clarify why the sliced pan should be banned, nor was there a counter to her comment.

Broadcasting Complaint Decisions

Statement by Suzanne Campbell

- The complainant cites the comment by Journalist, Ms. Suzanne Campbell, who said that a “famous study last year revealed that a slice of white bread had the same amount of salt as a packet of crisps.” The complainant states that it is important, when comparing the nutrient content of different products, to do so in terms of nutrients per 100gms .v. nutrients per 100gms rather than by comparing different weights. The complainant states that this is the only way to ensure that the correct facts are given to anyone watching the programme on the nutrient content of a product.

In terms of the comment by Ms. Campbell, the complainant states that the salt content of both white and wholemeal sliced bread is the same and provides 1g/100gms of salt. In comparison, Cheese and Onion Crisps contain 1.53gms/100gms of salt. The complainant states that it is imperative that facts are presented in a fair manner to avoid misunderstanding. The complainant states that, as it was presented in this programme, the comments about the level of salt in bread was highly misleading to viewers.

Comment by Robert Humphries

- The complainant also cites a comment by Mr. Robert Humphries who stated that in the bread making process, “ascorbic acid, emulsifiers and enzymes are turned into salt.”

The complainant states that there is no scientific evidence in the literature to say that enzymes turn into salt, in fact all literature agrees that enzymes are denatured and no chemical change occurs.

The complainant states that, apart from the overwhelmingly one-sided perspective offered by the selection of contributors and which resulted in an unbalanced and sensational report, the programme included a series of factually inaccurate claims.

4. Broadcaster’s Response

4.1 Summary of Broadcaster’s Response to the Initial Complaint

ShinAwil, who produced the programme, states that despite invitations to at least two major industrial bread manufacturers, none ultimately agreed to participate in the programme. Accordingly, to establish facts of industrial bread manufacturing and how these processes vary, they invited Mr. Robert Humphries, lecturer and trainer in baking in DIT to explain these processes for the benefit of viewers.

The programme producers state that Mr. Humphries explained how ascorbic acid, emulsifiers and enzymes were used in industrial bread-making in order to expedite the raising process. It was made clear that these ingredients are either ‘denatured’ in the oven or ‘turned into simpler chemicals’. Mr. Humphries concluded ‘They’re turned into salt, essentially’. From the point of view of chemical processes, this is an accurate statement.

Broadcasting Complaint Decisions

In respect of the salt content of a slice of white bread, the programme producer states that their own research does not support the assertion that a packet of crisps contains over 50% more salt than a slice of bread. ShinAwil are satisfied, based on research, that the statement that a slice of white bread contains the same amount of salt as a packet of crisps is factual. Having checked the labelling information on a number of leading bread products for three leading bakeries in Ireland, none of the products checked contains any less salt than a 25g pack of cheese and onion crisps or standard shop size packets of various other brands.

The programme producer states that they would have been happy to include in their original programme any observations or comments the bread industry had to make about salt levels in white bread if either of the major representatives of the Irish industrial baking industry they approached accepted their invitation to take part in the programme.

4.2 Broadcaster's Response to BAI

RTÉ notes that the programme in question was broadcast four times in 2016 without any complaint and that it was only in anticipation of a third re-broadcast of the series that a complaint was received.

In addition to the response by the production company, RTÉ wishes to state:-

Comment by Darina Allen

The broadcaster states that Ms. Allen is a well-known chef and food commentator in Ireland, known for her support for farmer's markets and traditional food production methods. The broadcaster states that the suggestion by the complainant that the opinion of Ms. Allen could be interpreted as a categorical factual statement that mass-produced bread was so deleterious to health that it should be categorised in the same way as other legally prohibited substances, is an exaggerated and subjective interpretation. RTÉ believes that viewers are sufficiently intelligent and aware to be able to recognise a comment being made in a light-hearted vein as being intended to be taken in a similarly light-hearted spirit. The broadcaster states that Ms. Allen's comments were clearly an expression of her own opinion and formed only one viewpoint in the discussion that took place at this section of the programme.

Statement by Suzanne Campbell

The broadcaster states that Ms. Campbell is a well-known food journalist. She referred to "a famous study last year revealed that a slice of white bread had the same amount of salt as a packet of crisps". The broadcaster states that her reference was to a survey carried out by the Irish Independent newspaper and published on 18th March 2016.

The broadcaster states that indications of salt levels given to consumers are made available on a per portion basis and this is the basis on which most consumers will assess the salt content of what they are about to eat. In that context, it was therefore valid – and not at all misleading – to frame this information in a way which would make sense to consumers.

Broadcasting Complaint Decisions

The broadcaster states that to present this information on a gram-for-gram basis as proposed by the complainant, is not a comparison that would give any useful or practical information to consumers so that they could make informed choices about what they eat. The broadcaster states that the statement by Ms. Campbell was accurate and contained no breach of Rule 4.19 or of any other section of the Code.

Robert Humphries' references to ascorbic acid, emulsifiers and enzymes 'turning into salt'

The broadcaster states that Mr. Humphries is a lecturer in the Dublin Institute of Technology who trains students in the techniques of industrial bread making. RTÉ is advised that the production team contacted Mr. Humphries again in the light of the IBBA's initial complaint and that Mr. Humphries was adamant that what he had stated was accurate.

The broadcaster states that Mr. Humphries was attempting to convey information about quite complex chemical processes in language that the lay viewer would understand and RTÉ believes that he did so effectively and accurately. The complaint referral does not include any evidence to counter Mr. Humphries' statement.

Allegation that the programme was partisan

The allegation that the programme offered "a one-sided perspective" is rejected by RTÉ. They state that reasonable and fair attempts were made to contact leading manufacturers in the bread-making industry to secure their participation in the programme.

The broadcaster notes that it was stated clearly and accurately in the programme: "We invited some industrial bread manufacturers to take part in this programme but at the time of going to air none had agreed". Accordingly, as the production was at an advanced stage, the production team contacted Mr. Humphries to obtain authoritative input from a person with expertise in industrial bread-making. The broadcaster states that Mr. Humphries teaches industrial bread-making to students who, after graduation, may work in industrial bakeries. In this way, viewers were given an impartial and informed view of the industrial bread-making process, from the standpoint of someone who understands the industry and strongly endorses the quality of the product, providing a balancing perspective when no industrial bread maker had proved willing to participate within production deadlines.

The broadcaster states that the production team advises RTÉ that they were not aware of the existence of the complainant body, the Irish Bread Bakers Association (IBBA), until such time as the initial complaint was received in September 2016. They observe that it would have been a very simple matter for leading bread manufacturers to refer the production team to the IBBA for comment if they had not wished to make comment themselves. This is what usually occurs when an individual manufacturer does not wish to take part in a programme but an industry representative body exists which can make an input to the programme on behalf of that industry.

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

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 & Impartiality in News and Current Affairs – Section 4: Rules 4.3, 4.8 and 4.19, the Committee has decided to reject the complaint.

In this regard:-

- The Committee noted that the programme set out to examine a specific issue, namely, the increasing degree of production involved in what are considered staple foods of the Irish; potatoes and bread. This perspective was clearly set out at the outset of the programme and audience's expectations would have been accordingly established.
- In the case of the consideration of the production of bread, the programme makers considered it from a number of different perspectives. In the case of two of the contributors, these noted the difference between traditional and manufactured bread making processes as well as the levels of salt in manufactured bread and were critical of modern processes and levels of salt. A third contributor spoke about modern bread manufacturing processes.
- Regarding this analysis, the Committee noted that there are different views on how comparisons should be made between foods, whether on the basis of a per portion basis or on the basis of per 100g. The Committee considers both approaches reasonable and did not believe that an issues therefore arose from the programme-makers decision to make comparisons based on portion sizes rather than 100g.

This is not an endorsement of the conclusions of the programme but rather recognises that there are different legitimate perspectives and the inclusion of one but not the other was not considered by the Committee to demonstrate unfairness.

- The Committee also noted that the programme makers had invited representatives of the bread manufacturing industry to participate in the programme. These representatives had declined and the programme makers informed audiences of this fact. This decision not to participate unavoidably impacted on the presentation of any views that the bread manufacturing industry may have had on the matter of current bread making processes or the question of the level of salt in bread in comparison to crisps. It was evident from the complaint material that the programme makers had attempted to engage with manufacturers and the absence of their perspective in the programme was not on account of any apparent failure by the production team to make contact. Moreover, the broadcaster sought to supplement the manufacturing perspective by including a lecturer who could speak about the process used to produce bread at large scales. The Committee was satisfied that this approach also demonstrated fairness.

Broadcasting Complaint Decisions

- In the case of the comments made by Mr. Robert Humphries, it is clear from the programme that he states that the enzymes are not found in the finished product and he states "...they're turned into salt, essentially". While the complainant may not agree with this conclusion, there is nothing to suggest that the programme makers decision to include this contributor suggested that the programme was approached in a manner that lacked fairness, objectivity and impartiality, particular where those who may have provided an alternative view chose not to participate.
- In view of the above, the Committee did not agree that the programme infringed 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: Nordic Cochrane Centre

Ref. No. 03/17

Station:

Programme:

Date:

RTÉ One TV

Prime Time

24th Nov 2016

1. Programme

'Prime Time' is a news and current affairs programme broadcast each Tuesday and Thursday evening at 9.30pm. The complaint refers to statements made about the Nordic Cochrane Centre regarding the HPV vaccine, prescribed to prevent cervical cancer.

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 & Impartiality in News and Current Affairs - Section 4: Rules 4.1, 4.2, 4.3 and 4.17.

3. Summary of Initial Complaint to the Broadcaster

The complainant, Professor Gøtzsche, states that, as a representative of the Nordic Cochrane Centre, he was interviewed for more than an hour for a documentary about the HPV vaccine by a reporter for Prime Time. In advance of the interview, the complainant had received emails explaining that he was being interviewed in his capacity as director of the Nordic Cochrane Centre and, specifically:-

- His complaint to the European Medicines Agency (EMA) about maladministration with regards to the safety of the HPV vaccine;
- His follow-on complaint to the European Ombudsman on the same issue;
- His complaint to the EMA and their response; and
- His concerns about the HPV vaccine's safety.

The complainant states that he thought the Prime Time reporter was interested in learning and broadcasting what was wrong with the way the EMA had handled the suspected serious harms of the HPV vaccine. He states that he was asked questions about his complaints to the EMA and to the European Ombudsman. He states that, however, by the end of the interview the reporter became, in his opinion, very aggressive and he felt no matter what he said, the reporter had a personal agenda that she was pursuing in respect of the topic to be examined in the programme.

Broadcasting Complaint Decisions

The complainant further states the Prime Time documentary was extremely one-sided and did not reflect RTÉ's editorial values of being impartial, accurate or serving the public interest. He states that everyone, including the complainant, who had concerns about possible serious harms of the HPV vaccines and who believed that more research was needed, were described in a way that left the audience with a feeling that they were untrustworthy.

The complainant states that the documentary lasted 18 minutes and 38 seconds, but only 12 seconds of his one-hour interview was used with the complainant saying:-

'If this is being abused by anti-vaccine groups, that's their fault. It isn't mine. I have not said anything about this vaccine, whether it is good or bad. Nothing.'

The complainant states that before this, the Prime Time reporter had explained that the Nordic Cochrane Centre had criticised the EMA's review of a possible link between the vaccine and certain syndromes. He states that the reporter went on to state that, previously, Nordic Cochrane were forced to apologise when it admitted it got it wrong on allegations that the EMA's review of the safety of the HPV vaccines, that they criticised, was compromised by conflicts of interests. He states that the programme noted that in one claim, Nordic Cochrane had got the wrong person; in another it was simply wrong. The complainant refutes these allegations and states Nordic Cochrane did not get it wrong on allegations that the review was compromised by conflicts of interest. The complainant further states that the review was compromised by conflicts of interest and they mentioned several such conflicts of interest in their complaint to the Ombudsman. These conflicts of interest were discussed at length during the interview with the Prime Time report, prior to the documentary being aired.

4. Broadcaster's Response

4.1 Summary of Broadcaster's Response to the Initial Complaint

RTÉ states that the purpose of their report was to investigate what scientific evidence there was, if any, for the claim that the HPV vaccine was causing serious harm to a substantial number of those who received it. Their view was that if there was evidence of such harm, it would be in the public interest to detail what it was, and if there was no such evidence, it would be in the public interest to state that this was the case.

While there are undoubtedly some people who believe that their daughters have been harmed by the vaccine, RTÉ did not find, in the course of lengthy and detailed research, any evidence of a causal link between the illnesses/disorders reported and the vaccine. While they fairly reported the claims made by families and campaigners, it was incumbent on them to make it clear that their research led to the inescapable conclusion that the weight of scientific evidence comes down on the side of the vaccine being safe.

During the course of their research, a number of campaigners referred RTÉ to the work of the Nordic Cochrane Centre, and they felt it was important to interview them and examine the complaints the Centre had made to the EMA.

Broadcasting Complaint Decisions

RTÉ states that it is hard to see how the Nordic Cochrane Centre can claim not to have got it wrong in relation to conflicts of interest when it has apologised for doing so.

4.2 Broadcaster's Response to BAI

RTÉ refers to the response of the Editor of Prime Time above and states this further response will demonstrate the thorough nature of Prime Time's investigation of the topic and the accuracy of its reporting, both generally and in relation to its coverage of Nordic Cochrane.

Prime Time decided to examine the issue of the safety of the HPV vaccine (a vaccine to prevent cervical cancer) on foot of the Health Service Executive's (HSE) confirmation of a sharp drop in take-up in its schools immunisation programme, largely due to claims being made by a campaign group, REGRET, that the vaccine was unsafe and was putting girls' health and lives at risk.

The organisation, REGRET, highlighted reported concerns about the safety of the vaccine in Denmark. The European Medicines Agency (EMA), as the umbrella regulator, had, through a detailed scientific review under EU law, examined the Danish concerns and found that there was no causal link between the HPV vaccine and two conditions highlighted by research from a syncope clinic in Denmark. REGRET criticised the EMA review as untrustworthy and referred Prime Time, in particular, to the Nordic Cochrane Centre, which, they said, had accused the EMA of scientific misconduct in the review.

Given the reputation of the Cochrane network, it was thought important to interview Nordic Cochrane. Prime Time travelled to Denmark on 14th November 2016 and interviewed Professor Peter Gøtzsche of Nordic Cochrane. The issue of the safety of the HPV vaccine was the chief focus of the programme's research and the reason for the interview; this was made clear to Professor Gøtzsche.

Given that the Professor wrongly claimed in his initial complaint to the broadcaster that the reporter was "very aggressive" in her interview with him and came with "a personal agenda", and that that false allegation is included in the complaint referral to the BAI, RTÉ wishes to note that it has no doubt that the interview with Professor Gøtzsche was rigorous, as interviews with Prime Time regularly are, but is satisfied that it was not 'aggressive' and that the reporter came to it with no agenda other than establishing the truth on a matter of very considerable public interest.

The broadcaster states that Prime Time accurately reflected the view of the Professor that his main criticism was of the process and conduct of the EMA HPV vaccine review and all its drug reviews and that, contrary to claims being made in Ireland, Nordic Cochrane had no opinion one way or the other on the key issue of the safety of the vaccine itself. The programme then continued with the extract that Professor Gøtzsche quotes.

In addressing this part of the professor's complaint, it is important to note that on the issue of conflicts of interest, having researched the matter, Prime Time established that there was no evidence to show that the EMA had not followed the law and its rules relating to the interests of people working on the HPV Vaccine review and that, in the absence of evidence, it would be unfair and partial to suggest otherwise.

Broadcasting Complaint Decisions

In addition, Prime Time took the view that whilst Professor Gøtzsche was entitled to critique the EMA's approach to its drug reviews, this should not distract from the editorial focus of the report and from the public interest in this matter, which was: did this impact on the HPV vaccine's safety or not?

In addition, Prime Time had to be mindful that whilst Nordic Cochrane took issue with the EMA's review, it was not coming to it as a neutral, independent and impartial voice – both its complaint to the EMA alleging 'maladministration' and its subsequent complaint to the European Ombudsman repeating this was co-signed by Dr. Louise Brinth, who had a direct interest in the matter.

Dr. Brinth, who had declined to talk to Prime Time, was directly concerned in the issue. She had made observations based on seeing more than 200 patients with suspected side effects to the HPV-vaccines at a syncope clinic in Denmark in the previous four years and had written case reports on dozens of those patients. This had partly prompted the Danish referral of the issue to the EMA. In its review, the EMA had concluded that there was no causal link between those observations and the HPV vaccine. As Dr. Brinth had fairly and accurately noted in her own response to the EMA, her work "is a description of an observation and a formulation of a question – I am working on the lowest steps of the [scientific] ladder.... therefore, my findings should not be seen as proof of anything".

Nevertheless, both Dr. Brinth and Nordic Cochrane took issue with the EMA's findings on her case reports and their complaints appear to defend Dr. Brinth's position while attacking that of the EMA and named scientists and EMA personnel.

The Prime Time report, after stating the core positions of both Nordic Cochrane and the EMA in relation to the vaccine, went on to state, through voiceover:

"Last month, Nordic Cochrane was forced to apologise when it admitted it got it wrong on allegations that the review was compromised by conflicts of interest. In one claim, it got the wrong person and in another, it was simply wrong".

In his complaint, Professor Gøtzsche takes issue with this and states:

"It is outright false when Rita O'Reilly from RTÉ says in the documentary: 'Last month Nordic Cochrane was forced to apologize when it admitted it got it wrong on allegations that the review was compromised by conflicts of interest'. We did not get it "wrong on allegations that the review was compromised by conflicts of interest". The review was compromised by conflicts of interest and we mentioned several such conflicts of interest, also in our complaint to the ombudsman".

Broadcasting Complaint Decisions

As Prime Time pointed out in its response to Professor Gøtzsche's initial complaint to RTÉ:

“It is hard to see how the Nordic Cochrane Centre can claim not have got it wrong in relation to conflicts of interest when it has apologised for doing so”.

As Prime Time reported, Nordic Cochrane was forced to apologise when it admitted error in its allegations that the review was compromised by conflicts of interest. Nordic Cochrane went on to apologise in the following terms:

“We apologize for our mistakes. We were not aware of the legal subtleties and assumed that an inventor of a patented technology is also an owner of that patent...”

RTÉ believes that Prime Time went to great lengths to establish the truth in a matter of very considerable public interest and that it fairly reflected the position of the various people and organisations involved, including that of Nordic Cochrane and Professor Gøtzsche.

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

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 & Impartiality in News and Current Affairs (Section 4: Rules 4.1, 4.2, 4.3 and 4.17), the Committee has decided to reject the complaint.

In this regard:-

- The Committee noted that broadcasters, as editorially independent organisations, are free to choose those parts of an interview that will be included in a programme. They are also free to conduct and arrange interviews in a manner that they believe will best suit the focus of the programme in which interview will feature. While interviewees may not be happy with the approach to questioning or extracts of an interview that are used, the role of the Committee is to consider whether there is any evidence of unfairness to the interviewee or a lack of objectivity or impartiality in the use of an interview in a programme.
- In the case of the complaint in question, the complainant raises a number of concerns about the manner in which the interview with him was approached by the Prime Time reporter and the decision to use only a short section of the interview with him. On the basis of the material provided, the Committee found no evidence to support the view that the manner in which the interview was arranged or conducted was unfair to the complainant. Regarding the decision to use only a short extract of the interview, the Committee was of the view that this is an editorial matter for the broadcaster and the Committee found nothing in the programme or the complaint submission which would suggest that the views of the complainant as set out in the extract used were not an accurate reflection of the views of the complainant.

Broadcasting Complaint Decisions

- On the matter of the criticisms of the Nordic Cochrane Centre in respect of work undertaken by the European Medicine Agency, these criticisms were clearly stated by the programme reporter as was the fact that the Centre had apologised to the European Medicine Agency for mistakes it had made in respect of its contention that the findings of the European Medicines Agency in respect of a link between the HPV vaccine and ill health had been reached without conflicts of interest being declared by those who partook in the work. The Committee found the statements in the programme to be factual and found no evidence from the programme or the submission which would indicate that this was not the case.
- On the more general criticism of the complainant that the programme lacked objectivity and impartiality, the Committee found from its review that it presented in detail the views of those who hold the position that the HPV vaccine has resulted in the ill health of those who have been administered with the vaccine, as well as the views of those who do not believe there is a correlation between the vaccine and ill-health. The programme concluded that the weight of scientific evidence does not support the view that there is a correlation between ill-health and the vaccine and the Committee was of the opinion that the presentation of these facts about the current status of science in this area could not be considered to amount a lack of fairness, objectivity and impartiality in the treatment of this subject matter.
- In view of the above, the Committee did not agree that the programme infringed 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: Wind Aware Ireland

Complaint Ref. No. 04/17

Station:

Programme:

Date:

RTÉ One TV

Nine News

23rd Nov 2016

1. Programme

The 'Nine News' is a news and current affairs programme broadcast each evening from 9pm. The complaint refers to an item on energy use in Ireland in the context of the publication by the Sustainable Energy Authority of Ireland (SEAI) of its annual 'Energy in Ireland' report.

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 & Impartiality in News and Current Affairs - Section 4: Rules 4.1 and 4.2.

3. Summary of Initial Complaint to the Broadcaster

The complainant states that a news report on wind energy was unbalanced. The complainant notes that it was stated in the broadcast that €426m was saved from renewable energy with the broadcast stating that savings were mainly from wind energy. The complainant states that according to SEAI, wind saved €233m and, according to the Commission for Energy Regulation (CER), a payment of €240m is due in Public Service Obligation (PSO) levies in 2015/2016 to support wind; a fact which the complainant states was not mentioned in the report. The complainant states that this represents a net loss of €7m.

The complainant further states that communities all over Ireland are under great stress and duress opposing industrial wind developments. This fact was not mentioned in the interview and she states that the Chief Executive of SEAI was presented as bemoaning the 'adversarial planning system' and 'bombastic' opposition to wind, without giving other groups any voice or right to defend their position or explain their opposition.

The complainant requests that remedial action is taken and that some balance to the debate should be offered by RTÉ, to other groups, in the interest of fairness.

4. Broadcaster's Response

4.1 Summary of Broadcaster's Response to the Initial Complaint

RTÉ states that the report was not about wind energy itself, but was a summary of the report which had been published by the SEAI that day. The broadcaster states that it is an important report published each year by the SEAI, a statutory body. It covers all aspects of our energy system, including overall energy demand and supply, the trends in all sub-sectors of that demand and supply, the sources of our energy, including coal, gas, renewable, hydro-electricity, and so on, energy efficiency trends, and also sectoral energy demand such as how much energy is used by the household sector, transportation, industry, agriculture, and the commercial sectors.

The broadcaster states that the figure quoted for the savings to the State from the use of renewable energy of €426 million in 2015 was picked out and highlighted by the SEAI themselves in their press release (specifically 'avoided over €400 million euro of energy imports') and also very clearly and precisely in their Energy in Ireland Highlights info-graphics that sought to summarise the findings of their report (Renewables avoided €426m of fossil fuel imports). It was also included in the main body of the SEAI report. The broadcaster states that it is clear throughout that report that electricity generated from wind is now the most significant renewable energy source in Ireland. In the press release accompanying the report, the SEAI itself described how 'over a quarter of our electricity needs were met by renewable energy with the majority from wind'.

The broadcaster states that the news report referred factually to the fact that the SEAI was calling for greater public understanding and support of the need for wind turbines and other sources of renewable energy. This point was made strongly by the Chief Executive of the SEAI on launching the report. The comment he made in the news report was:

"Our planning system is naturally adversarial in set-up, and what appears to get coverage, more than not, is extreme views, where we would have certain developers in the past who may have been a bit bullish but also you have a lot of bombast from opposition groups as well. And what I want to do is to create a rational dialogue between the two."

The broadcaster states that the Chief Executive is clearly not saying either side in the debate is correct, he is calling for both sides to enter dialogue to try to resolve issues.

Having reviewed the report, RTÉ is satisfied that it was an accurate summary and dissemination to the public of the finding of an important SEAI publication about energy trends in Ireland. The broadcaster also claims that the comment from the SEAI Chief Executive used in the news report was a fair and accurate representation of the main point he made that day.

4.2 Broadcaster's Response to the BAI

RTÉ refers to the response above by Programme Editor of the Nine O'clock News, to the initial complaint.

Broadcasting Complaint Decisions

RTÉ states that the news report was an impartial, objective and accurate account of the publication and launch of the 2016 SEAI report 'Energy in Ireland 1990-2015'. It was not a current affairs debate or discussion under section 39(1)(b) of the Broadcasting Act 2009. Neither was there any expression of the broadcaster's own views.

The broadcaster states that in her complaint to the BAI, the complainant states that "The summary of the report presented by RTÉ focused for the most part on Wind Energy in Ireland, including visual images of industrial wind turbines during the report." The broadcaster states that the news report began by focusing on carbon emissions and difficulties faced by Ireland in meeting its 2020 targets. It goes on to say that the SEAI is calling for greater understanding of "the need for wind turbines and other sources of renewable energy."

The broadcaster states that the broadcast then discussed energy use in Ireland in 2015 before examining renewable energy. This is the first time wind turbines feature in the report (at 1 minute and 16 seconds in a report of 1 minute and 47 seconds duration). It should be noted that the images of wind turbines are then followed by images of solar panels as the savings from renewable energy and the SEAI call for a more rational debate is mentioned. Contrary to the claim made by the complainant, the summary of the SEAI report during the news programme did not in fact focus for the most part on wind.

The original complaint to RTÉ stated that:

"In the report, it was reported that €426 million was saved from renewables, "mainly wind". In fact, wind saved €233 million according to SEAI and we are to pay €240 million in PSO levies in 2015/2016 according to CER to support wind, a fact that was not mentioned in the report. This represents a net loss of €7million."

In its initial response to the complainant RTÉ pointed out that:

"The figure quoted (sic) for the savings to the State from the use of renewable energy of €426 million euro in 2015 was picked out and highlighted by the SEAI themselves in their press release (specifically "avoided over €400 million euro of energy imports") and also very clearly and precisely in their Energy in Ireland Highlights info-graphics that sought to summarise the findings of their report ("Renewables avoided €426m of fossil fuel imports"). It was also included in the main body of the report. It is clear throughout the report that electricity generated from wind is now the most significant renewable energy source in Ireland. In the press release accompanying the report the SEAI itself describes how "over a quarter of our electricity needs were met by renewable energy with the majority from wind."

The Highlights info-graphics referred to may be seen on the SEAI website. The press release may be seen on the same site.

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In addition to its original response, RTÉ points out that the SEAI report makes it clear in the fourth paragraph on page 32 of their published report that “electricity production from wind energy has increased to the point that it accounted for 84% of the renewable electricity generated in 2015.” Subsequently, it clearly states on page 37 that this wind energy, on its own, displaced €233 million of fossil fuels that would otherwise have been imported for the generation of electricity. This amount is clearly more than half of all fossil fuel imports displaced from Ireland’s total energy mix, referred to in the SEAI press release and also illustrated in its highlights sheet. It may be noted that this €233 million figure takes no account of additional wind energy used in other sectors (outside of electricity generation) including industry, agriculture, services, residential, and transport.

The broadcaster states that it is clear therefore, that wind does account for well in excess of half of the renewable energy generated in this country. The issue of PSO levies is an entirely separate one, but even if it had been relevant, it is clear that it would have shown a net gain from savings by wind generation.

In relation to the comment about the planning process by the CEO of the Sustainable Energy Authority of Ireland, the complaint states:-

“By airing [the Chief Executive’s] view on the planning system it does not allow a balanced approach on planning whereby the public have the right to make submissions in the interest of the common good.”

The broadcaster states that there is no suggestion from the interviewee that the public does not have a right to make submissions in the interest of the common good. The broadcast reported his views on the impact of the adversarial nature of the planning system and, in his view, the approach of some parties to the process, and his goal of creating “a rational dialogue.”

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

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 & Impartiality in News and Current Affairs (Section 4: Rules 4.1 and 4.2), the Committee has decided to reject the complaint.

In this regard:

- The Committee had regard to the fact that the item was a news item. As such, it was a factual report that focused on the contents of a publication from the Sustainable Energy Authority of Ireland. Accordingly, the news report was concerned with providing audiences with a summary of the publication, the context for the publication and the views of the Sustainable Energy Authority of Ireland on their report. The item was therefore not a detailed analysis or examination of the broader issues pertaining to energy in Ireland or indeed the findings of the report.

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As with any publication, there are a range of questions that may be asked or criticisms of the conclusions reached by the organisation that is publishing the document (such as those criticisms of the publication detailed by the complainant).

- However, broadcasters are free to choose the editorial focus of a news item and the Committee will not assess whether that editorial decision is appropriate but rather whether the content as broadcast met the requirements of the Broadcasting Act and any relevant broadcast code. In this instance, and having reviewed the news report, the Committee found nothing to suggest that it was not an accurate summary of the publication in question. As a news report, it was naturally limited in scope and while it was clearly an incomplete examination of the issues related to energy use in Ireland, the Committee considered this an editorial issue rather than one pertaining to broadcasting standards.
- Concerning the comments made by the CEO of the Sustainable Energy Authority of Ireland, the Committee did not agree with the view of the complainant that those comments were unfairly critical of those who support or oppose wind energy. Rather, his comments set out his view that there is a need for compromise and dialogue by those on either end of the spectrum of support or opposition to wind energy as well as changes in the planning system which might enable more productive engagement between different stakeholders. The Committee did not consider another perspective was necessary on this point so as to ensure fair, objective and impartial coverage of the matter given that the CEO was discussing perspectives and was not critical of any specific group or organisation.
- In view of the above, the Committee did not agree that the programme infringed 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.

