



ÚDARÁS  
CRAOLACHÁIN  
NA hÉIREANN

BROADCASTING  
AUTHORITY  
OF IRELAND

**Broadcasting Authority of Ireland**

**Broadcasting Complaint Decisions**

**June 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](http://www.bai.ie), by emailing [info@bai.ie](mailto: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](http://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, 1 complaint was considered and rejected by the Compliance Committee of the BAI. In addition, 3 complaints were considered and rejected by the Executive Complaints Forum. The decision of the Compliance Committee was reached at its meeting held 26<sup>th</sup> April 2017, while the decisions of the Executive Complaints Forum were reached at two meetings held in April 2017.

### Rejected by the BAI Compliance Committee

**Complaint made by: Mr. J. Conneely**

**Ref. No. 13/17**

**Station:**

Galway Bay FM

**Programme:**

The Keith Finnegan Show

**Date:**

10<sup>th</sup> January 2017

#### 1. Programme

The complaint concerns 'The Keith Finnegan Show', which is a news/current affairs/entertainment programme broadcast on Galway Bay FM every weekday from 9am to 12pm. The complaint refers to a discussion regarding homelessness.

#### 2. Complaint Category

The complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in Current Affairs); the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs (Section 4: Rules 1 & 2).

#### 3. Summary of Initial Complaint to the Broadcaster

The complainant states that the programme included a discussion of homelessness. The discussion included three contributors, the presenter, Galway City Mayor, Cllr. Noel Larkin and later in the show, Mr. Martin O'Connor of COPE, a social services organisation. The complainant states that the contributors made what he considers to be derogatory comments about foreign nationals and homeless people. The complainant references some of the comments, as follows:-

- Presenter – “those Romanian type of people, indeed, again not being racist...”
- Cllr. Noel Larkin referring to homeless people – “they make that decision themselves to sleep there” and later “...if you have to sleep rough on the street, there is, there is some inherent problem there...”
- Mr. Martin O'Connor – “In terms of the profile of people who are rough sleeping.... they don't have habitual residency status in the country.”

The complainant states that the programme included no balance from the presenter nor did the presenter challenge the Councillor on comments made. The complainant states that it is well-known nationwide that rents are sky-high and landlords will not accept homeless people as tenants. In the complainant's view, emergency homeless accommodation is sub-standard, unsafe at times and may be indefinite emergency accommodation. The complainant states that, in his view, people end up sleeping rough because they are poor and not necessarily because they choose to.

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In terms of Mr. O'Connor's comments, the complainant queries how Mr. O'Connor professes to know that every person does not have habitual residency status? He was not challenged on this.

The complainant states that the presenter read out what he considers to be a partial/full statement from Galway City Council regarding homeless services. It is his view that no balance was provided nor was there a voice on behalf of homeless people. In his view, the presenter took the Council's statement as factual without posing any alternative viewpoints.

### **4. Broadcaster's Response**

#### **4.1 Summary of Broadcaster's Response to the Initial Complaint**

Galway Bay FM states that they acknowledged receipt of the complaint and deny the contents of the complaint. They state that having listened to the broadcast again, they consider the complaint to be without foundation.

#### **4.2 Broadcaster's Response to BAI**

Galway Bay FM states that having reviewed the broadcast with their compliance committee, they believe there is no substance to this complaint and the Mayor of Galway City, Cllr. Noel Larkin, also stands by his statements.

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

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 & impartiality in Current Affairs) and the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs (Section 4: Rules 1 & 2), the Committee has decided to reject the complaint.

In this regard:-

- The Committee had regard to the two elements of the programme referred to by the complainant. The first involved a discussion with the Mayor of Galway City while the second was with a representative of COPE Galway, a social services organisation with a range of roles, including support for people who are homeless. The discussion related to policy towards homelessness, including advice on what the public can do to support people who are homeless and the benefits or otherwise of donating money to individuals or organisations.
- Having reviewed both interviews, the Committee was satisfied that the approach was fair, objective and impartial. While noting that some of the comments made during the programme lacked sensitivity, such as the phrase 'Romanian type of people', the discussion set out a range of different aspects to this social issue.

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This included an examination as to why some people chose to sleep on the streets even though there were places available in homeless shelters. A number of reasons were set out in the programme. These included a fear of bullying in shelters, the financial support provided from the public to people who choose not to sleep in shelters (and how this may or may not exacerbate homelessness), problems with addiction, mental health difficulties, and the fears of people who do not have residency and are reluctant to engage with social services.

- The Committee found that while the first interview with the Mayor of Galway City included a number of generalisations about people who choose to sleep on the street, this was counterpointed by the interview with the representative from COPE Galway who examined the issue in a more nuanced manner. The Committee did not agree with the view of the complainant that this representative indicated that he professed to “know that every person does not have habitual residency status.” Rather his comments in this regard related to some of those who do not have habitual residency status and how this impacts on homelessness.
- In view of the above, the Committee did not agree that the programme infringed the BAI Code of Fairness, Objectivity or Impartiality in News and Current Affairs or the Broadcasting Act 2009 in the manner specified by the complainant. Accordingly, the complaint has been rejected.

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## Rejected by the Executive Complaints Forum

### Complaints made by: Alliance for the Defence of Family & Marriage Ref. Nos. 116 – 120/16

**Station:**

RTÉ Radio 1/RTÉ 1TV

**Programme:**

Various Broadcasts

**Date:**

5<sup>th</sup> September 2016

#### 1. Programmes

The complaints concern references to a report in The Times (Ireland edition) on the advice given to an undercover reporter at a Dublin pregnancy counselling clinic and an examination of this story across the broadcast day in a number of programmes. These programmes were the 'News at One', 'Drivetime' (RTÉ Radio 1), 'Six One News', 'Nine News' and 'Claire Byrne Live' (RTÉ 1 TV).

#### 2. Complaints Category

The complaints are 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, 4.4, 4.5, 4.7, 4.8, 4.12, 4.14, 4.17, 4.18, 4.19, 4.21, 4.22 and 4.23.

#### 3. Summary of Initial Complaints to the Broadcaster

The complainant states that there was a significant lack of balance in relation to RTÉ's handling of an item taken from The Times (Ireland edition) concerning a 'pro-life' pregnancy counselling agency in Dublin. The complainant states that the context for the broadcasts was a story regarding a pregnancy counselling centre and the kind of advice it seems to be giving out about abortion. The complainant states that the undercover reporter for The Times (Ireland edition) recorded some of the advice provided at this centre to an undercover reporter who sought information about ending her pregnancy, which was in the early stages.

The complainant states that during the undercover interview, a number of questions were asked and answers were given in respect of the time to have an abortion, and when to take a pill to terminate a pregnancy. The complainant states that the undercover reporter was told she couldn't take a pill at 7/8 weeks to terminate a pregnancy and that if she had an abortion there could be a cancer risk. The reporter was also informed that there were more breast cancers found in groups of women who have had abortions than any other group. The complainant states that there was also a claim of a link between women who had an abortion and to the abuse of other children in the family.

The complainant refer to a meta-analysis conducted in China that found that the risk of breast cancer in a woman increased by 44% after one abortion, by 76% after two abortions and by 89% after three abortions.

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The complainant cites the evidence from the US and Canada that shows the incidence of child abuse grew significantly with the liberalisation in both countries; the survey records a decrease in such abuse when restrictions were introduced on the availability of abortion.

The complainant states that The Times (Ireland edition) reporter featured during the broadcasts was biased in what she said when interviewed.

The complainant notes that the programmes included interviews with medical professionals, namely Dr. Peter Boylan, Chairman of the Institute of Obstetricians and Gynaecologists and Prof. Seán Brady of the Coombe Hospital. The complainant states that both gave their view that there was no basis for claiming that women who have had an abortion are among the highest sufferers from breast cancer. The complainant also states that, in relation to abuse, Dr. Boylan stated that there was no basis for the claim made by the clinic in question. The complainant noted that Dr. Boylan also advised women seeking an abortion to go to one of the clinics of the Irish Family Planning Association. The complainant states that by not inviting a medical expert on to give the counter-argument to what Dr. Boylan and Prof. Brady stated, RTÉ were showing a clear bias in favour of the opinion of, in the case of Dr. Boylan, a doctor who they state is known to favour further liberalisation of the State's laws on abortion. The national broadcaster, was, in the view of the complainant, engaging in censorship that could lead misguided women to accept what they describe as this 'pro-abortion' approach uncritically, without hearing the other side.

The complainant maintain that there are medical consequences when patients are not given full information on the subject at issue. Informed consent is a very important principle when dealing with patients. The complainant believes that doctors and media fell very far short of respecting that principle in this case.

The complainant further states that RTÉ should not act as an advertising agency for one side in the discussion that will proceed in the future on whether to repeal the 8<sup>th</sup> Amendment to the Constitution.

### **4. Broadcaster's Response**

#### **4.1 Summary of Broadcaster's Response to the Initial Complaints**

RTÉ acknowledged the hand-delivered complaints but did not follow up with a comprehensive response.

### 4.2 Broadcaster's Response to BAI

RTÉ apologised for the lack of response to the initial complaints and explained that the correspondence was not entered in to the formal Complaints Process due to an administration error. The email sent to RTÉ Complaints was deleted in error and unfortunately the hard copy which was delivered to RTÉ was mislaid.

The broadcaster states that the audio of a secret recording was made on behalf of The Times (Ireland edition) reporter (not by RTÉ). The broadcast was editorially justified as incontrovertible evidence of the statements made by the pregnancy counsellor and it was also demonstrably in the public interest to bring to public attention that the giving of such advice was taking place. The broadcaster states that had the subject known of the intention of The Times (Ireland edition) to publish, co-operation was unlikely to have been forthcoming and it is reasonable to believe that the content could not be obtained by other means. It may also be noted that by the time of broadcast the content was in the public domain, published for example on The Times (Ireland edition) website.

The broadcaster maintains that it dealt with the story in a fair, objective and impartial manner. For example, in the case of the News at One, in her interviewing of the reporter, Ms. Coyne and Dr. Boylan, the presenter demonstrated exemplary impartiality, consistently used objective language and made no reference at any point to any views of her own on the topic. The presenter asked The Times (Ireland edition) reporter if, as stated by the pregnancy counsellor, it was too late to take an abortifacient pill at 7/8 weeks to which the response was that such a pill is effective up to 10 weeks.

In terms of interviews with medical experts, RTÉ believes that requesting the informed view of Dr. Peter Boylan, Chair of the Institute of Obstetricians and Gynaecologists and a former Master of The National Maternity Hospital amongst others, on the reported advice that abortion could cause an increased risk of breast cancer, child abuse and other side effects was fair, impartial and objective, and that it was in the public interest to ask the expertise of a consultant in the field of obstetrics and gynaecology if there is evidence to support those claims. Dr. Boylan said there is no evidence to back up the claims made by the adviser at the pregnancy advice clinic. RTÉ states that it is not aware of any alternative expert voice who has disputed the position as outlined by Dr. Boylan in relation to the claims made by the adviser at the pregnancy advice clinic.

The broadcaster states that the complainant refers to a website campaigning against abortion as authority for the claim of a connection between the incidence of child abuse and abortion by abusive mothers. They do not cite any medical authority in Ireland who has supported the advice given in the pregnancy counselling clinic, either on a relationship between cancer and abortion or between abortion and child abuse.

### 5. Decision of the Executive Complaints Forum: 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 – Section 4: Rules 4.1, 4.2, 4.4, 4.5, 4.7, 4.8, 4.12, 4.14, 4.17, 4.18, 4.19, 4.21, 4.22 and 4.23, the members have decided to reject the complaints.

In this regard:-

- In the case of the item on the **News at One**, the Forum was of the view that the content was largely factual in nature and set out the news story as reported in The Times (Ireland edition) and the details of that story. In particular, the item included the views of the Clinic on what they considered to be the potential health impacts of abortion on women and families. This was done via the recording, an extract of which was included in the programme. This was followed by alternative views on the advice given, in particular from Dr. Peter Boylan of the Institute of Obstetricians and Gynaecologists. In that context, it was clear that both sets of views were provided.

While noting that the weight of views was critical of the advice given by the Clinic in question, this was unsurprising given that the Clinic had declined to be interviewed and did not issue a statement to the broadcaster. Where the subject of a news story declines to participate or to provide a statement, this will impact on the extent to which their views can be demonstrated. Furthermore, it is not the role of the broadcaster to represent absent parties but rather to ensure that a wide range of views are provided and to show fairness to the subject of a news story, insofar as practical.

The Forum also noted that it is also editorially legitimate to critically examine the views of an organisation where, in this instance, the alleged advice provided at the Clinic was considered problematic in the context of general medical knowledge and best practice in counselling crisis pregnancies. In terms of the extent to which the broadcaster was fair to the Clinic; the Forum considered it evident that the programme makers had attempted to contact the Clinic so that their position on the story and criticisms of their alleged advice could be articulated. This, and the decision not to name the Clinic, were considered by the Forum to demonstrate additional fairness towards the Clinic.

The Forum did not agree with the complainant's characterisation of Dr. Boylan's views as those supporting a liberalisation of Ireland's abortion laws. The Forum noted that he was speaking in a representative capacity rather than a personal capacity and that the audience would have reasonably considered his views to be that of the medical profession that he represented and to represent the general views of that profession on the soundness of the advice provided at the

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Clinic. In that context, the Forum did not consider there was any need to provide any additional contributions to address the medical issues highlighted since his views could not be considered partial but rather the expert view of a medical professional.

- In the case of the coverage of this story, and complaints relating to **Drivetime**, the **Six One** and **Nine News**, the Forum was of the view that, for the above reasons, the content was fair, objective and impartial. It noted that the story developed over the day and included a focus on the issue of the regulation of clinics that give advice on crisis pregnancies, which was appropriate given the general view amongst medical experts and the Minister for Health that the alleged advice provided by the Clinic in question was problematic. The issue of regulation was also addressed by a representative of the Pro-Life Campaign who stated that women in crisis pregnancies should receive accurate and very precise information. This representative also noted that ministers didn't act over allegations that another clinic was giving information to women on how to access illegal abortion pills and queried what was motivating this apparent difference in approach.

Further medical views were also provided via interviews with Prof. Seán Brady, Consultant Obstetrician of the Coombe Maternity Hospital and Dr. Rhona Mahony, Master of Holles Street Maternity Hospital and the Forum considered it reasonable for the coverage of this story to retain an approach which was critical of the advice allegedly provided by the Clinic in a context where key figures in the medical profession dealing with pregnancies were of the view that the advice allegedly given was incorrect.

In each broadcast, it was also noted by the Forum that the Clinic had declined to comment and that the broadcaster had taken additional steps to get a comment by visiting the clinic. More generally, the Forum found no evidence to support the view that the presenters of these programmes or the News at One conducted the interviews in an impartial manner or expressed their views in a partisan manner.

- In the case of the edition of **Claire Byrne Live**, the comments made in respect of this story were in the context of a broader and longer discussion on abortion legislation. This discussion included a range of views including the views of a 'pro-life' organisation, One More Day, and contributors from the studio who favoured or opposed changes to Ireland's laws on abortion. Taking the discussion as a whole, and having also regard to the above considerations, the Forum considered the brief reference to this story unproblematic.
- In view of the above, the Forum were of the opinion that the broadcasts 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 complaints have been rejected.

# Broadcasting Complaint Decisions

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**Complaint made by: Mr. Brendan O'Callaghan**

**Ref. No. 6/17**

**Station:**

RTÉ One TV

**Programme:**

Nine News

**Date:**

22<sup>nd</sup> December 2016

## 1. Programme

The complaint concerns the Nine News, which is a news and current affairs programme broadcast each weekday night at 9pm. The complaint refers to the use of the word 'abortion' in the report on the Citizens' Assembly by the RTÉ Religious and Social Affairs Correspondent.

## 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 Initial Complaint to the Broadcaster

The complainant believes that the use of the word 'abortion' while reporting on the activities of the Citizens' Assembly consideration of the Eighth Amendment of the Constitution, is a blatant misrepresentation of the Assembly's considerations. The complainant states that the emotive word 'abortion' is wisely not mentioned in the Eighth Amendment, therefore, he questions why the broadcaster would use it. The complainant further states that it is questionable that the word 'abortion' is ubiquitous in the public proceedings of the Assembly as claimed by the broadcaster. The complainant states that were the Assembly's public deliberations so ubiquitously oriented, then RTÉ's subjective 'abortion' assertion should have been brought to the attention of the relevant Assembly authority and the RTÉ viewers so that the assertion be substantiated, reported on and corrected as necessary. As this has not happened, the complainant claims that the continued use of the 'abortion' word in RTÉ reports on the Assembly's deliberations means RTÉ has a predetermined agenda and is therefore in breach of and contrary to the Broadcasting Act 2009.

## 4. Broadcaster's Response

### 4.1 Summary of Broadcaster's Response to the Initial Complaint

The broadcaster states that the complainant takes issue with the use of the word 'abortion' when discussing the Citizens' Assembly's deliberations on the Eighth Amendment. He alleges that use of the word 'abortion' in this context is in breach of RTÉ's obligations to report news in an objective and impartial manner as set out under Section 39 (1) of the Broadcasting Act 2009.

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The broadcaster states that RTÉ and its correspondent have consistently and correctly reported that the Eighth Amendment effectively restricts the availability of abortion in this jurisdiction. In its reportage, RTÉ News is obliged to make issues of the day accessible to its audiences. As many listeners, viewers and readers of their output are not versed in the niceties of legal terminology employed to describe the Constitution and its many amendments, it is incumbent on their reporters and correspondents to identify in the everyday language of laypeople, the subject matter under discussion. The broadcaster states that the word ‘abortion’ has been ubiquitous in the public proceedings of the Citizens’ Assembly. The broadcaster further states that use of the word ‘abortion’ is entirely appropriate when reporting on the Assembly’s deliberations and reporting on it would be meaningless were it not to be used.

### 4.2 Broadcaster’s Response to BAI

RTÉ refers to the response by the Programme Editor of Nine News to the initial complaint. RTÉ notes that the terms of reference of the Citizens’ Assembly were agreed by the Houses of the Oireachtas in July 2016, stating:

That Dáil Éireann

"approves the calling of a Citizens’ Assembly to consider the following matters and to make such recommendations as it sees fit and report to the Houses of the Oireachtas:

(i) the Eighth Amendment of the Constitution."

RTÉ notes also that even a brief reading of submissions to the Citizens’ Assembly on the Eighth Amendment will demonstrate the understanding by individuals and organisations with a range of perspectives on the topic that the issue of abortion is at the core of the consideration of this amendment to the Constitution. That understanding was impartially and objectively reflected in the reporting of the Religious and Social Affairs Correspondent.

## 5. Decision of the Executive Complaints Forum: 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 News Content) and the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs – Section 4: Rules – Section 4: Rules 4.1 and 4.2, the Forum has decided to reject the complaint.

In this regard:-

- The Forum noted that the newsreader introduced the piece by informing viewers that the Citizens’ Assembly had received more than 13,000+ submissions on the constitutional restrictions on abortion. She then interviewed their Religious and Social Affairs Correspondent, who gave a breakdown of these numbers.

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He stated that the Assembly had received 8,000 submissions online, whilst 5,000 were received by post. The 5,000 received by post favoured the current restrictions of the Eight Amendment.

- The Forum were of the view that the Citizens' Assembly on the Eight Amendment of the Constitution were tasked with reviewing and reporting on the Eight Amendment, which would by its nature, include a consideration of the issue of abortion. The Forum also noted that the use of the word 'abortion' is widely used by all media outlets, whether online or in print and that while the use of language is important when discussing matters of social importance, this word was commonly used to describe the intentional ending of a pregnancy. While there are other words that may have been used, the choice in this instance was not considered by the Forum to demonstrate a failure to represent facts or views or would be likely to be considered insensitive by the audience such that an infringement of the Code would be warranted.
- In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act, 2009 in the manner specified by the complainant. Accordingly, the complaint was rejected.

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**Complaint made by: Mr. Thomas Kirby**

**Ref. No. 9/17**

**Station:**

RTÉ Radio 1

**Programme:**

The Marian Finucane Show

**Date:**

26<sup>th</sup> November 2016

## 1. Programme

The Marian Finucane Show is a magazine style programme that includes 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 a remark made by the presenter in relation to views held by an interviewee on the programme regarding Cuba.

## 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 4.3 and 4.19.

## 3. Summary of Initial Complaint to the Broadcaster

The subject under discussion was the death of former Cuban President Mr. Fidel Castro. The programme included two interviewees. The remark referred to by the complainant was made by the presenter and concerned one of the two interviewees. It was made following the reading out of some texts from listeners - one of which is as follows:

“Marian, I’ve heard [the interviewee] talk on many issues over the years. He is an intelligent and rational man. However, when it comes to Cuba he sees everything through rose-tinted glasses.”

The presenter then says: -

“Well there’s no doubt he’s a great enthusiast for....and to the best of my knowledge he’s also married to a Cuban, so that could influence your thinking too, you know.”

The complainant states that the interviewee who was the subject of the presenter’s remarks had explained his admirations for the Cuban system; it prioritised education, housing and health and did so in an egalitarian way. He also explained his own assessment of the human rights violations.

The complainant states that the presenter’s remark suggested that the views held by this interviewee on Cuba, may exclude due consideration of that country’s failings because he is married to a Cuban.

The complainant states that the presenter effectively dismissed this interviewees opinions with her remark which was made just after the interviewee had left the studio. The complainant found the remark to be offensive, totally unprofessional and insulting to the listeners' intelligence, experience of life and general sensibility.

The complainant believes that a presenter of a current affairs programme should not make judgement on the motives behind intransigent views of programme guests after they leave the studio and where an eminent opportunity had existed on the programme to put that question squarely to the guest.

The complainant states that despite three separate attempts to elicit a response to his initial complaint, he did not receive any acknowledgment.

#### **4. Broadcaster's Response**

##### **4.1 Summary of Broadcaster's Response to the Initial Complaint**

RTÉ state that it has no record of receipt of the initial complaint and they have no evidence of posting or delivery other than an unsigned copy of the letter that the complainant states that he sent.

##### **4.2 Broadcaster's Response to BAI**

The broadcaster states that the remark which is the subject of complaint was made as the presenter was reading out texts from listeners in reaction to an interview with two contributors on the occasion of the death of former Cuban President Mr. Fidel Castro. The broadcaster states that the interview is provided as a related broadcast, and notes that what they describe as the interviewee's unequivocally positive view of Castro's legacy provided the context for the remark made by the presenter. The broadcaster states that this is the passage in which the remark occurs:

Presenter:

Another caller says, "Marian, I've heard [the interviewee] talk on many issues over the years, he's an intelligent and rational man. However when it comes to Cuba he sees everything through rose-tinted glasses," says Jack in Terenure.

Presenter then states:

"Well there's no doubt he's a great enthusiast for [indecipherable] – and to the best of my knowledge he's also married to a Cuban, so that could influence your thinking, too, you know".

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The broadcaster states that the remark was light-hearted, accurate and arguably supplies the listener with useful information to assist them in contextualising the interviewee's view of President Castro and Cuba.

### 5. Decision of the Executive Complaints Forum: 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 News Content) and the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs – Section 4: Rules – Section 4: Rules 4.3 and 4.19, the Forum has decided to reject the complaint.

In this regard:-

- The Forum was of the view that the programme in its entirety was fair, impartial and objective and that the presenter questioned her guest over the welfare of the people of Cuba. It also noted that there were a wide range of issues aired on the contributions and legacy of President Castro.
- The Forum noted that the tone of the interview was light-hearted and the banter between the presenter and interviewees was in context. In terms of the text that was read out on-air and the presenter's comment; the Forum considered the text factual in nature and the presenter's comment to be playful and not dismissive. The tone and comment were considered by the Forum to be typical of the programme and the presenter's style and one which also added context to the discussion. The Forum also noted that the interviewee had not made a complaint about the comment.
- In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act, 2009 in the manner specified by the complainant. Accordingly, the complaint was rejected.

