



ÚDARÁS  
CRAOLACHÁIN  
NA hÉIREANN

BROADCASTING  
AUTHORITY  
OF IRELAND

Broadcasting Authority of Ireland  
Broadcasting Complaints Decisions

July 2019



## Contents

BAI Complaints Handling Process.....	3
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### Rejected by the Compliance Committee

<a href="#">67/18: Mr Maurice O'Neill: RTÉ One: The Late Late Show .....</a>	<a href="#">4</a>
<a href="#">70/18: Mr Anthony Dennehy: RTÉ One: The Late Late Show .....</a>	<a href="#">6</a>
<a href="#">71/18: Mr Vincent Corcoran: RTÉ One: The Late Late Show .....</a>	<a href="#">8</a>
<a href="#">73/18: Mr Daniel O'Connell: RTÉ One: Prime Time.....</a>	<a href="#">10</a>

### Rejected by the Executive Complaints Forum

<a href="#">63/18: Mr Brendan O'Regan: RTÉ Radio One: Ray D'Arcy Show.....</a>	<a href="#">12</a>
<a href="#">64/18: Mr Peter Kennedy: RTÉ Jr: Nerf Gun Advert .....</a>	<a href="#">14</a>
<a href="#">66/18: Mr Paul Kennedy: Sunshine 106.8: More Music Drive: Traffic and Sports .....</a>	<a href="#">16</a>
<a href="#">68/18: Mr Emmett Corbett: Red FM: Neil Prendeville Show .....</a>	<a href="#">18</a>
<a href="#">69/18: Mr Cormac McConnell: Newstalk 106/108 FM: Lunchtime Live .....</a>	<a href="#">20</a>
<a href="#">72/18: Mr John Geoghegan: RTÉ One: Six One News.....</a>	<a href="#">22</a>
<a href="#">01/19: Ms Patricia Donohue: RTÉ Radio One: The Ray D'Arcy Show .....</a>	<a href="#">24</a>
<a href="#">02/19: Mr Declan Scullion: Virgin Media 2: Celebrity Juice .....</a>	<a href="#">26</a>
<a href="#">03/19: Mr Donal O'Sullivan Latchford: Newstalk 106-108FM: Lunchtime Live.....</a>	<a href="#">28</a>
<a href="#">06/19: Mr Michael Walsh: RTÉ One: Nine O'clock News .....</a>	<a href="#">30</a>
<a href="#">08/19: Mr Pól Ó Mongáin: RTÉ Radio One: The Marian Finucane Show .....</a>	<a href="#">32</a>
<a href="#">09/19: Declan O'Hara: Radio Nova: The Colm &amp; Lucy Breakfast Show.....</a>	<a href="#">34</a>



## **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. Further information on the complaints process or codes may be found on the BAI's website: [www.bai.ie](http://www.bai.ie). Alternatively, you can request further information by email: [info@bai.ie](mailto:info@bai.ie) or by phone: 016441200.

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 by the Compliance Committee of the BAI or may be delegated to the Executive Complaints Forum, which is accountable to the Compliance Committee.

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, four (4) complaints were considered and rejected by the Compliance Committee of the BAI. In addition, twelve (12) complaints were considered and rejected by the Executive Complaints Forum. The Compliance Committee decisions were made at its meeting on 27<sup>th</sup> February 2019 and the decisions of the Executive Complaints Forum were made at meetings held on 21<sup>st</sup> January, 4<sup>th</sup> February, 20<sup>th</sup> February, 4<sup>th</sup> March and 25<sup>th</sup> March 2019.



## Rejected by Compliance Committee

**Complaint made by: Mr. Maurice O'Neill**

**Ref. No. 67/18**

**Station:**

RTÉ One

**Programme:**

The Late Late Show

**Date:**

2<sup>nd</sup> November 2018

### 1. Programme

The complaint concerns The Late Late Show, a light entertainment programme broadcast each Friday evening at 9.35pm.

### 2. Complaint Category

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

### 3. Complaint Summary

The complaint concerns a segment of the programme in which Mr. Peter Casey, a candidate in the presidential election, discussed the election and comments made by him regarding the Traveller community. The complainant refers to a section of the interview in which Mr. Casey asked the presenter if he had lost control. The presenter replied, "I have absolutely not Peter and I'll tell you something, if I do, you'll know all about it". The complainant believes that the presenter's response was unacceptable and undermined the fairness of the interview. The complainant believes the presenter demonstrated bias in his treatment of the guest.

The complainant is of the view that audience members expressed their dissatisfaction with the interviewee's views, however, no alternative views from audience members were expressed. Further, the complainant states that the guest was not given the opportunity to defend himself. The complainant contends that this segment of the programme infringed the Code under Sections 4.1 and 4.2.

### 4. Broadcaster Response

The broadcaster states that Mr. Casey was invited onto the Late Late Show following his success in the presidential election the week prior to the broadcast. Various matters were discussed during the interview, including the interviewee's views on the Traveller community and other presidential candidates. The broadcaster maintains that the interviewee was fully briefed on the format of the programme and was aware that the audience would be participating. The broadcaster maintains that the interviewee's consent to appear on the programme was fully informed.

The broadcaster views the interview as compliant with the principles of fairness and noted that the presenter played devil's advocate in order to elicit views from the interviewee.



The broadcaster is of the view that, given the interviewee's comments about the Traveller community, and in the interest of fairness, it was appropriate to allow members from that community to participate.

The broadcaster maintains that the interview was robust and challenging with the interviewee being given ample time to defend himself. The broadcaster believes the content did not infringe the Code of Fairness, Objectivity and Impartiality in News and Current Affairs.

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

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Compliance Committee noted that the complaint was made under Sections 4.1 and 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Committee considered the complainant's view that the interview was not conducted in a manner which was fair to the interviewee. The presenter was robust in his questioning, however, the Committee noted that it is often the role of the presenter to challenge the views of guests when discussing matters of public controversy or current debate. Further, a robust or rigorous interview does not necessarily constitute unfairness. The Committee did not deem that the interview was conducted in a manner which contravened the requirements for fairness, objectivity or impartiality.

The Committee had regard for the format of the interview and the subject being discussed. While various audience members did challenge the interviewee regarding comments and views put forward by him, it was noted that the subject matter was such that it was likely to elicit strong views from some members of the public. The Committee considered the steps taken by the broadcaster, as outlined in its response to the complaint, to inform the interviewee about the format of the programme and the audience participation prior to broadcast. It was the view of the Committee that the steps taken were sufficient to provide the interviewee with enough information to allow him to prepare for the interview. Further, the interviewee was given ample time to offer his opinions and respond to challenges during the programme. In this respect, the Committee considered the approach was proportionate and fairness was achieved.

The Committee did not view the broadcast as infringing the requirements to be fair, objective or impartial. As such, the complaint was rejected.



**Complaint made by: Mr. Anthony Dennehy**

**Ref. No. 70/18**

**Station:**

RTÉ One

**Programme:**

The Late Late Show

**Date:**

2<sup>nd</sup> November 2018

**1. Programme**

The complaint concerns The Late Late Show, a light entertainment programme broadcast each Friday evening at 9.35pm.

**2. Complaint Category**

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

**3. Complaint Summary**

The complaint concerns a segment of the programme in which Mr. Peter Casey, a candidate in the presidential election, discussed the election and comments made by him regarding the Traveller community. The complainant refers to a section of the interview in which Mr. Casey asked the presenter if he had lost control. The presenter replied, "I have absolutely not Peter and I'll tell you something, if I do, you'll know all about it". The complainant believes that the presenter's response was threatening and displayed bias towards the interviewee.

The complainant further considers that the presenter gave his own views and allowed audience members to heckle the interviewee. The complainant believes that this segment of the programme was in breach of the Code, under Sections 4.1 and 4.2.

**4. Broadcaster Response**

The broadcaster states that Mr. Casey was invited onto the Late Late Show following his success in the presidential election the week prior to the broadcast. Various matters were discussed during the interview, including the interviewee's views on the Traveller community and other presidential candidates. The broadcaster maintains that the interviewee was fully briefed on the format of the programme and was aware that the audience would be participating. The broadcaster maintains that the interviewee's consent to appear on the programme was fully informed.

The broadcaster views the interview as compliant with the principles of fairness and noted that the presenter played devil's advocate in order to elicit views from the interviewee.

The broadcaster is of the view that, given the interviewee's comments about the Traveller community, and in the interest of fairness, it was appropriate to allow members from that community to participate.



The broadcaster maintains that the interview was robust and challenging with the interviewee being given ample time to defend himself. The broadcaster believes the content did not infringe the Code of Fairness, Objectivity and Impartiality.

## **5. Decision of the Compliance Committee Rejected (Majority)**

Having considered the broadcast and the submissions from the complainant and the broadcaster, and also having had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Compliance Committee noted that the complaint was made under Sections 4.1 and 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Committee considered the complainant's view that the interview was not conducted in a manner which was fair to the interviewee. The presenter was robust in his questioning, however, the Committee noted that it is often the role of the presenter to challenge the views of guests when discussing matters of public controversy or current debate. Further, a robust or rigorous interview does not necessarily constitute unfairness. The Committee did not deem that the interview was conducted in a manner which contravened the requirements for fairness, objectivity or impartiality.

The Committee had regard for the format of the interview and the subject being discussed. While various audience members did challenge the interviewee regarding comments and views put forward by him, it was noted that the subject matter was such that it was likely to elicit strong views from some members of the public. The Committee considered the steps taken by the broadcaster, as outlined in its response to the complaint, to inform the interviewee about the format of the programme and the audience participation prior to broadcast. It was the view of the Committee that the steps taken were sufficient to provide the interviewee with enough information to allow him to prepare for the interview. Further, the interviewee was given ample time to offer his opinions and respond to challenges during the programme. In this respect, the Committee considered the approach was proportionate and fairness was achieved.

The Committee did not view the broadcast as infringing the requirements to be fair, objective or impartial. As such, the complaint was rejected.



**Complaint made by: Mr. Vincent Corcoran**

**Ref. No. 71/18**

**Station:**

RTÉ One

**Programme:**

The Late Late Show

**Date:**

2<sup>nd</sup> November 2018

**1. Programme**

The complaint concerns The Late Late Show, a light entertainment programme broadcast each Friday evening at 9.35pm.

**2. Complaint Category**

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

**3. Complaint Summary**

The complaint concerns a segment of the programme in which Mr. Peter Casey, a candidate in the presidential election, discussed the election and comments made by him regarding the Traveller community. The complainant believes the presenter demonstrated bias in his treatment of the interviewee. The complainant believes that there was no objectivity displayed by the presenter and considers that the presenter's treatment of the interviewee bordered on abusive. The complainant contends that this segment of the programme infringed the Code under Sections 4.1 and 4.2.

**4. Broadcaster Response**

The broadcaster states that Mr. Casey was invited onto the Late Late Show following his success in the presidential election the week prior to the broadcast. Various matters were discussed during the interview, including the interviewee's views on the Traveller community and other presidential candidates. The broadcaster maintains that the interviewee was fully briefed on the format of the programme and was aware that the audience would be participating. The broadcaster maintains that the interviewee's consent to appear on the programme was fully informed.

The broadcaster views the interview as compliant with the principles of fairness and noted that the presenter played devil's advocate in order to elicit views from the interviewee.

The broadcaster is of the view that, given the interviewee's comments about the Traveller community, and in the interest of fairness, it was appropriate to allow members from that community to participate. The broadcaster maintains that the interview was robust and challenging with the interviewee being given ample time to defend himself. The broadcaster believes the content did not infringe the Code of Fairness, Objectivity and Impartiality in News and Current Affairs.



## **5. Decision of the Compliance Committee Rejected (Majority)**

Having considered the broadcast and the submissions from the complainant and the broadcaster, and also having had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Compliance Committee noted that the complaint was made under Sections 4.1 and 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Committee considered the complainant's view that the interview was not conducted in a manner which was fair to the interviewee. The presenter was robust in his questioning, however, the Committee noted that it is often the role of the presenter to challenge the views of guests when discussing matters of public controversy or current debate. Further, a robust or rigorous interview does not necessarily constitute unfairness. The Committee did not deem that the interview was conducted in a manner which contravened the requirements for fairness, objectivity or impartiality.

The Committee had regard for the format of the interview and the subject being discussed. While various audience members did challenge the interviewee regarding comments and views put forward by him, it was noted that the subject matter was such that it was likely to elicit strong views from some members of the public. The Committee considered the steps taken by the broadcaster, as outlined in its response to the complaint, to inform the interviewee about the format of the programme and the audience participation prior to broadcast. It was the view of the Committee that the steps taken were sufficient to provide the interviewee with enough information to allow him to prepare for the interview. Further, the interviewee was given ample time to offer his opinions and respond to challenges during the programme. In this respect, the Committee considered the approach was proportionate and fairness was achieved.

The Committee did not view the broadcast as infringing the requirements to be fair, objective or impartial. As such, the complaint was rejected.



**Complaint made by: Mr. Daniel O'Connell**

**Ref. No. 73/18**

**Station:**

RTE One

**Programme:**

Prime Time  
Prime Time Promo

**Date:**

1<sup>st</sup> November 2018

**1. Programme**

Prime Time is a current affairs programme broadcast twice weekly at 9.35pm. The complaint concerns an episode which dealt with claims of bullying and harassment in the Irish film industry and a promo for the episode broadcast prior to the programme.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1, 4.2, 4.4, 4.9, 4.12, 4.13, 4.16, 4.21 and 4.22. Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards – Principle 7.

**3. Complaint Summary**

The complaint relates to two elements of the programme; firstly, the complainant claims that the footage of him taking part in a protest was broadcast without his knowledge or consent. The complainant further states that he was identifiable while many other protesters had their faces pixelated.

The second element of the complaint relates to the presentation of the footage taken at the protest which, the complainant believes, is unfair and misleading. In his submission, the complainant outlines the basis of the dispute and the resulting protest. The complainant claims that the presenter failed to inform viewers of all elements of the protest, including injuries the complainant sustained while protesting. The complainant is of the view that the programme was one-sided as not all the facts were included. The complainant claims that the report was inaccurate, did not respect his privacy and failed to be objective or impartial.

**4. Broadcaster Response**

The broadcaster states that the complainant was participating in a public protest and carrying a sandwich board which, the broadcaster presumes, he wore to convey his message to the public. The broadcaster maintains that the reporter informed the complainant of the existence of the footage and the intention to broadcast it. Therefore, the broadcaster believes that the use of the broadcast material which is the subject of this complaint was included for legitimate journalistic purposes.

The broadcaster states that the programme included footage of the incident involving the complainant and a vehicle. The broadcaster considers that the footage used was relevant given the subject of the report. The broadcaster states it was unable to obtain footage of the alleged incident in which the complainant was injured. However, the broadcaster references the complainant's claims regarding this



incident in the broadcast. The broadcaster is of the view that neither the programme nor the promo infringed any of the Codes as claimed by the complainant.

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

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Compliance Committee noted that the complaint was made under Sections 4.1, 4.2, 4.4, 4.9, 4.12, 4.13, 4.16, 4.21 and 4.22 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The complaint was also made under Principle 7 of the Code of Programme Standards.

The Committee considered the complainant's views regarding the programme not being fair in its treatment of the subject matter and in the presentation of the footage from the protest. The Committee noted that the programme included footage of an incident involving the complainant and a vehicle. There was no evidence that the content was edited in a manner which distorted its meaning. Further, the Committee noted that the complainant was aware that the footage had been taken and had regard for the inclusion of the complainant's view of the incident by way of a voiceover. The Committee noted that the programme explored various viewpoints and included interviews with a range of contributors. The Committee was of the view that the subject matter was dealt with in a manner which was fair, objective and impartial.

The Committee had regard to the complainant's view that his privacy was encroached. The Committee noted that the complainant's face was visible while the faces of other protestors were pixelated. However, the Committee considered that the principle of privacy is not absolute and must be balanced against other considerations. In this instance, the footage was recorded at a public protest and was featured in the context of its relevance to the subject matter. The Committee noted the broadcaster's view that the complainant, through his involvement in the incident with the car, became more pertinent to the storyline than other protestors. The Committee weighed the right to privacy against other factors, such as the public interest, and did not view the programme as having unreasonably encroached the complainant's privacy.

The Committee noted that the complainant did not make a case for his complaint to be considered under Sections 4.16, 4.21 or 4.22.

The Committee did not view the broadcast as infringing the requirements in the manner outlined by the complainant. As such, the complaint was rejected.



## Rejected by Executive Complaints Forum

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

**Ref. No. 63/18**

**Station:**

RTÉ Radio 1

**Programme:**

Ray D'Arcy Show

**Date**

3<sup>rd</sup> October 2018

### 1. Programme

The complaint concerns the Ray D'Arcy Show, a lifestyle/entertainment programme broadcast each weekday afternoon from 3 – 4.30pm.

### 2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1, 4.2 and 4.22.

### 4. Complaint Summary

The complainant is of the view that the presenter expressed a partisan view when discussing the topic of Catholic education and Catholic religion in schools. The complainant believes the presenter demonstrated bias and expressed a personal view that amounted to a campaign to take religion out of schools. The complainant believes that the one-sided opinion given by the presenter led to the programme being unfair.

### 4. Broadcaster Response

The broadcaster states that the presenter's comments were made in the context of the review of a newspaper story on the day. The broadcaster contends that regular listeners to the programme would be aware of the newspaper segment in which topics of the day are discussed. The broadcaster states that this is not a news and current affairs programme, instead it is an authored programme, as permitted under the Code. It includes a segment in which the presenter informs the listener of news stories and provides his personal view. It is in this context that the comments were made. The broadcaster disagrees that this could be considered as campaigning. The broadcaster is of the view that the programme complied with regulatory Codes.

### 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 relevant legislation and the Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.



The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1, 4.2 and 4.22. The Code requires that the content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The complaint concerns personal comments made by the presenter during a review of the main stories in the newspapers that day. The presenter referred to an article in the Irish Independent that morning on ending the 'Baptism Barrier' in schools. The Forum noted the comment reflected the presenter's personal view, however, this newspaper review segment is synonymous with the presenter's personality and style. The Forum was of the view that the comments did not render the piece partial or unfair. Further, the Forum noted that the requirement for news and current affairs to be broadcast without any expression of the broadcaster's own views does not refer to individual presenters, rather to the entity which owns or operates the broadcast service. The Forum did not consider the comments to have infringed the requirements regarding fairness, objectivity and impartiality.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.

#### **Addendum – Clarification made to complainant following decision**

The Code sets out standards and practices which broadcasters are expected to adhere to in their treatment of news and current affairs. Under section 39 of the Broadcasting Act, the term 'broadcaster' does not refer to individual presenters, instead it refers to the entity that owns and operates the broadcasting service. However, this does not mean that individual presenters do not need to comply with the Code.

Rule 22 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs outlines a standard which is specific to presenters in the context of current affairs content. However, this rule should not be taken to mean that a presenter of current affairs content may never give a view or opinion on a matter of public controversy or public current debate. Rather, the Code seeks to prevent the presenter from pursuing an agenda or advocating a partisan position such that a biased view on an issue is articulated.

In its decision, the Forum acknowledged that a personal view was offered by the presenter but determined that "the comments did not render the piece partial or unfair". In determining this, the Forum considered that Rule 4.22 was not infringed by the presenter's comments. Further, the Forum was of the view that the content of the broadcast did not infringe the requirements of the Code. Therefore, the complaint was rejected in full.



**Complaint made by: Mr. Peter Kennedy**

**Ref. No. 64/18**

**Station:**

RTÉjr

**Advertisement:**

Nerf Guns

**Date:**

18<sup>th</sup> October 2018

**1. Advertisement**

The complaint concerns an advertisement for a Nerf Gun, broadcast at 4.30pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(d); the BAI Children's Commercial Communications Code – Section 9.3.

**3. Complaint Summary**

The complaint refers to an advertisement for Nerf Guns, which work by shooting darts at an opponent. The complainant draws attention to the lack of a warning to not shoot the darts in the direction of someone's eyes or face. The complainant states that the product itself displays a clear warning but the advertisement did not mention this. The complainant believes this advertisement infringes the requirement of the Code regarding general safety.

**4. Advertiser's Response**

Hasbro UK states that the advertisement fully complies with the Code in that it does not show children acting in a dangerous manner and does not encourage dangerous behaviour.

**5. Broadcaster Responses**

The broadcaster states that the advertisement shows children running and holding the Nerf Gun at body level and does not depict them shooting anyone in the face or head. The broadcaster also claims that safe use of the guns is depicted on the box. The broadcaster is of the view that advertisement depicted the correct use of the guns and believe that the advert did not infringe the Code in the manner described by the complainant.

**6. 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 relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.



The Forum noted the complaint was submitted under the Children’s Commercial Communications Code. The Code requires that commercial communications shall not show children in morally or physically dangerous situations or behaving dangerously in the home or outside, including street and road scenes, except when the sole purpose of the commercial communication is to promote safety.

The Forum had regard to the concerns of the complainant in relation to the correct use of Nerf guns and noted that the advertisement did not carry a warning referring to the dangers of firing darts at eye level.

The Forum noted that the advertisement featured the new ‘Nerf Elite Infinus’ gun and showed children running after each other firing the guns. However, the children had their backs to the guns and were all firing in one direction. The Forum further noted that the children were not seen firing at each other. The Forum was of the view that the content of this advertisement was such that it did not infringe the Children’s Code. On this basis the complaint was rejected.



**Complaint made by: Mr. Paul Kennedy**

**Ref. No.66/18**

**Station:**

Sunshine 106.8

**Programme:**

More Music Drive: Traffic & Sports News

**Date:**

11<sup>th</sup> October 2018

**1. Programme**

More Music Drive is a music driven programme with traffic, sports and news updates. The programme is broadcast from 2pm to 7pm each weekday afternoon.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.10, 4.17 and 4.20.

**3. Complaint Summary**

The complainant states that while driving towards the city on the M1 around 6pm, a traffic update on the station warned of a truck broken down in the south bore of the Port Tunnel. The complainant states that he approached the tunnel five minutes later but the lights were green and the traffic was flowing freely. Shortly afterwards, a sports update on the programme reported that Shane Lowry was plus one early in his round in the British Master's golf tournament, however, the complainant checked the golf scoreboard when he got home and found that Shane Lowry had completed his round, finishing at plus three. The complainant found the sports update at 7pm to contain the same inaccurate information. The complainant believes the station broadcast inaccurate information and that the mistake was not acknowledged nor rectified speedily despite his emails to the station at the time.

**4. Broadcaster Response**

The broadcaster states that Sunshine Radio always strives to ensure that the news and information broadcast on air is as up-to-date as possible. The broadcaster concedes that sometimes they are limited by the information available to them by suppliers together with the need to have bulletins prepared in advance of live broadcast. The broadcaster acknowledges the complainant's disappointment with the output and understands the importance of timely and accurate output.

**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 relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.



The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.10, 4.17 and 4.20. The Code requires that news and current affairs content is objective, impartial and presented with due accuracy.

The complainant is of the view that the broadcast contained inaccurate reporting of traffic and sports news. The Forum noted that the sports report was factually accurate at the time of preparation and, while not updated for subsequent broadcasts, the information contained in the reports remained accurate. The Forum also noted that there was insufficient evidence to determine conclusively if the traffic information was inaccurate.

In view of the above, the Forum did not agree that the reports infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



**Complaint made by: Mr. Emmett Corbett**

**Ref. No. 68/18**

**Station:**

Red FM

**Programme:**

The Neil Prendeville Show

**Date:**

25<sup>th</sup> October 2018

**1. Programme**

The complaint refers to The Neil Prendeville Show, which is a news current affairs programme broadcast each weekday from 9am – 12 noon.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.17, 4.19, 4.20, 4.21 and 4.27.

**3. Complaint Summary**

The complaint refers to comments made by the presenter in advance of the Referendum regarding changing the Blasphemy Law in Ireland. The complainant claims that the presenter wrongly stated that blasphemy is an offence against any religion. The complainant maintains that this was a damaging and incorrect statement which would have swayed peoples' opinions and their vote in the Referendum which was upcoming at the time of broadcast.

The complainant is of the view that the presenter failed to be impartial and that this, together with the inaccurate information, resulted in a programme that was not objective, fair or impartial.

**4. Broadcaster Response**

The broadcaster maintains that the presenter stated his genuine understanding of blasphemy on the day in question and states that, if this interpretation is incorrect, the broadcaster is open to a remedy suggested by the regulator.

The broadcaster states that the complainant was given over five minutes on air with the presenter on the same day and had ample opportunity to provide his perspective on the upcoming Referendum. A subsequent caller to the programme was on air to give his views, which were against the removal of the blasphemy laws. The broadcaster is of the view that this illustrates that the presenter was not knowingly seeking to mislead the audience.



## **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 relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted that the complaint referred to a comment made by the presenter ahead of the Referendum to change the Blasphemy Law in Ireland in which he described blasphemy as being an offence against any religion. The Forum noted that in Ireland, blasphemy is prohibited against any form of religion and also noted that the Defamation Act 2009 refers, under blasphemy to “matters held sacred by any religion”. The Forum therefore, did not consider the complainant’s interpretation of blasphemy to be correct.

Furthermore, the Forum is guided by the Referendum Commission which cites the following:

“The legal definition of blasphemy is contained in the Defamation Act 2009. That Act says that a person publishes or utters something blasphemous if they publish or say something that is grossly abusive or insulting in relation to matters held sacred by any religion, thereby causing outrage among a substantial number of the adherents of that religion”. Therefore, the presenter’s reference to blasphemy in the context of the Referendum could not be considered as inaccurate or misleading.

In view of the above, the Forum did not agree that the broadcast infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



**Complaint made by: Mr. Cormac McConnell**

**Ref. No. 69/18**

**Station:**

Newstalk 106-108FM

**Programme:**

Lunchtime Live

**Date:**

23<sup>rd</sup> October 2018

**1. Programme**

The complaint concerns Lunchtime Live, which is a lifestyle programme broadcast each weekday from 12 noon to 2pm.

**2. Complaint Category**

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

**3. Complaint Summary**

The complaint concerns an interview with a representative of Doctors for Freedom of Conscience, in relation to GP-led abortions in Ireland. The complainant is of the view that the presenter's interviewing style was unfair and showed a lack of respect for the interviewee. The complainant believes that the presenter displayed bias in her treatment of the interviewee. Overall, the complainant believes the programme failed to be fair and objective.

**4. Broadcaster Response**

The broadcaster maintains that the interview was a robust exchange between the presenter and the interviewee on a topic that can illicit strong reactions. The broadcaster noted that the interviewee is a professional and was allowed time during the discussion to speak uninterrupted and unchallenged. The broadcaster is of the view that the programme facilitated the expression of a range of views with the presenter proffering challenging and opposing viewpoints on the topic.

The broadcaster is of the view that the programme in its entirety was fair, impartial and objective.

**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 relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2. The Code requires that the content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.



The Forum noted that broadcasters are required to deal fairly with contributors, to facilitate a range of views and to ensure presenters do not express their own views such that a partisan position is advocated. The Forum had regard to the type of programme and the context of the interview. The programme is a mix of current affairs, lifestyle and human-interest stories and this segment included an interview with a representative of Doctors for Freedom of Conscience. The issue was topical because of the recent referendum regarding the 8<sup>th</sup> Amendment and the discussion related to how abortion services will be provided in Ireland. The Forum noted that the interview contained some robust exchanges and the discussion became heated at times, however, the presenter's tone was respectful towards the guest and the interviewee was given ample opportunity to convey her views.

The Forum considered the presenter's questions, challenges and interventions as appropriate in the context of the interview and did not find that the comments included an expression of the presenter's own views or advocated a partisan position. The Forum noted that rigorous questioning in the context of an interview does not necessarily constitute unfairness.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and the Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



**Complaint made by: Mr. John Geoghegan**

**Ref. No. 72/18**

**Station:**

RTE One

**Programme:**

Six One News

**Date:**

13<sup>th</sup> November 2018

**1. Programme**

The complaint refers to a broadcast of the 6.01 News. The report in question related to events in Gaza.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1, 4.2 and 4.17.

**3. Complaint Summary**

The complainant is of the view that the report was inaccurate and failed to be objective or impartial. The inaccuracy and bias claimed is based on the following statement in the report:

“rockets fired from within Gaza were met with Israeli air strikes”

The complainant is of the view that this suggests the antecedent event was the firing of rockets from Gaza and the consequent event was Israeli airstrikes and therefore the Israelis had merely retaliated to a provocation committed by the Palestinians. The complainant states that the sequence of events is that an Israeli special forces group invaded Gaza and when Hamas military forces detected that group, a firefight ensued during which seven Palestinians and one Israeli were killed. The Israelis then launched airstrikes as cover and Hamas retaliated. Therefore, in the view of the complainant, an accurate and unbiased report would be “Israeli airstrikes were met with rockets fired from Gaza” rather than the other way around, as reported by the broadcaster.

The complainant also believes that other biased reports in this broadcast included video footage of Israeli medical personnel handling Israeli casualties, but no footage was shown of Palestinian casualties. In addition, the Ministry of Health in Gaza was referred to as “the Hamas run Gaza Health Ministry”. The complainant states that Hamas is the democratically elected government of Palestine and therefore adding the tag “Hamas-run” is akin to stating “the Fine Gael run Ministry of Health” if referring to Ireland. The complainant believes that the reporting in this case was misleading and an attempt to suggest that the Gaza Ministry is not legitimate.

**4. Broadcaster Response**

The broadcaster states that the complainant claims the sequence of events was that Israeli special forces invaded Gaza, however, the broadcaster believes that the complainant ignores the fact that the script broadcast also stated “Hamas has said it is retaliating – after one of its commanders and six other



gunmen were killed in a firefight after it says an undercover Israeli unit was discovered inside the Gaza strip. A member of the Israeli special forces was also killed”.

The broadcaster also maintains that the report showed people in Gaza walking through the streets, an ambulance and people in a distraught state as a body was being carried. Therefore, the assertion by the complainant that the report only showed Israeli medical personnel handling Israeli casualties is factually inaccurate. Referring to the footage used, the broadcaster notes it also included footage released by Hamas. The broadcaster claims editorial independence in this regard. Finally, the broadcaster claims that the use of the words “the Hamas run Gaza Health Ministry” is factually correct.

## **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 relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1, 4.2 and 4.17. The Code requires that the content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Forum noted that broadcasters are required to ensure that news and current affairs content is compiled, produced and presented in a manner which is independent, unbiased and without pre-judgement. The Forum was mindful that broadcasters have editorial rights over what is broadcast. What is necessary is that it's reporting on any news or current affairs item is credible, trustworthy and editorially independent. The Forum noted the complainant's concern regarding the use of the term "rockets fired from within Gaza were met with Israeli air strikes" in the report and was of the view that this statement was used in context and did not lead to the broadcast being partial or misleading. The Forum did not find evidence in the broadcast to support the complainant's assertion that the broadcaster deliberately distorted facts in support of either side. The Forum noted that there is no requirement in the Code for a broadcaster to cover every aspect of a news item and was mindful that the Code is not intended to govern perceptions of 'bias' based on topics and/or subject areas that a broadcaster has chosen not to cover. Overall, the Forum noted the report to be factually accurate, with no evidence of a lack of editorial independence. The Forum considered the broadcast in its entirety and was of the view that the news item was reported in a factual manner which was objective and impartial.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and the Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



**Complaint made by: Ms. Patricia Donohue**

**Ref. No. 1/19**

**Station:**

RTÉ Radio 1

**Programme:**

The Ray D'Arcy Show

**Date:**

21<sup>st</sup> November 2018

**1. Programme**

The complaint concerns the Ray D'Arcy Show, a lifestyle/entertainment programme broadcast each weekday afternoon from 3 – 4.30pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(b) (harm & offence); the BAI Code of Programme Standards - Principle 5 (Respect for Persons and Groups in Society).

**3. Complaint Summary**

The complainant refers to a discussion with RTÉ's Head of Religious programming about religious programmes featured on the station, including The Living Word and The Angelus.

During the discussion the presenter stated that he was offended when he heard the Angelus bells being played on RTÉ. The presenter went on to state that hearing The Angelus makes him think of child sexual abuse. The complainant believes this was the presenter's personal view which was a generalised statement against a particular group in society. The complainant maintains that this comment infringed the BAI Code of Programme Standards.

**4. Broadcaster Responses**

The broadcaster states that during the discussion with the Head of Religious programming, there was a discussion about exit polls taken by the broadcaster in relation to the retention of The Angelus by the station. The interviewee outlined the requirement of the station to ensure they catered for people of all faiths and people of no faith, further, the interviewee discussed how RTÉ had changed the pictures that accompany the ringing of the bells to meet that need. The presenter later read out texts and emails both for and against The Angelus in its current form.

**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 relevant legislation and the Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.



The Forum noted the complaint was submitted under the Code of Programme Standards – Principle 5: Respect for Persons and Groups in Society. The Code requires that respect for religious views, images, practices and beliefs in programme material is shown.

The complaint concerns an interview with RTÉ’s Head of Religious programming in respect of religious programme features on the station, and, specifically, personal comments made by the presenter regarding The Angelus. The presenter commented that on hearing the Angelus, he was reminded of child sexual abuse and stated that he cannot help but make that connection. The Forum noted the comment reflected the presenter’s personal view, however, it noted that the Code is not intended to prevent the critical scrutiny of religion by means of information, drama or other programming.

The Forum noted that the interview lasted just over 21 minutes and the presenter’s tone and pace were respectful to the interviewee. The presenter did interject with questions and opposing views, however, he provided the interviewee with ample time to answer those questions. The presenter read out several text messages both for and against the broadcast of The Angelus and, again, the interviewee was given time to respond.

The Forum did not agree that the broadcast infringed the Code regarding the manner in which persons and groups in society are represented and did not prejudice respect for human dignity. Nor did the presenter’s comments stigmatise, support or condone discrimination against society’s religious beliefs. In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in the manner specified by the complainant. Accordingly, the Forum rejected the complaint.



**Complaint made by: Mr. Declan Scullion**

**Ref. No. 2/19**

**Station:**

Virgin Media 2

**Programme:**

Celebrity Juice

**Date:**

31<sup>st</sup> December 2018

**1. Programme**

Celebrity Juice is a comedy panel show scheduled for broadcast each Saturday night at 10pm. This episode, however, was broadcast on Monday, New Year's Eve at 9pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(b) (harm & offence); the BAI Code of Programme Standards - Principle 4.

**3. Complaint Summary**

The complainant states that the language and visual content was obscene and of a sexual nature. The complainant is of the view that given this programme was broadcast on New Year's Eve, it was highly likely that minors would be among the viewers at this time. This was inappropriate for minors and was broadcast too close to the watershed deadline of 9pm.

**4. Broadcaster Response**

The broadcaster states that the programme was shown after the 9pm watershed on Virgin Media Two, a channel that does not broadcast programmes classified as children's programming. Furthermore, immediately prior to the programme, a voiceover was broadcast informing viewers to "brace yourself for some carnage in Celeb Juice". The broadcaster states that the warning is in keeping with the style and tone of the programme and appropriate for the audience profile of Virgin Media Two.

The broadcaster notes that the broadcast contained some bad language and toilet humour but does believe that the content could be considered as infringing Principle 4 of the Code. Further, the broadcaster states that the scene referred to by the complainant was not shown until 15 minutes into the programme, by which time, it would have been apparent that the content was not suitable for children. The broadcaster maintains that, post watershed, there is also an obligation on parents to establish the nature of programming if children are watching unsupervised.

**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 relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.



The Forum noted the complaint was submitted under the Code of Programme Standards: Principle 4 – Protection of Children. The Code requires that the broadcasters respond to the specific needs of children as audience members and protect them from material that is unsuitable for them.

The Forum further noted that *Celebrity Juice* is a comedy panel game show broadcast post-watershed. The programme is presented by a comedian who hosts a panel of celebrity guests. The guests answer questions and compete in challenges which often involve coarse humour and sexual innuendo.

The Forum acknowledged the importance attached to freedom of expression in the broadcasting environment. The Forum also took note of the broadcast channel, audience expectation and the time of broadcast and were of the view that the programme did not infringe the Code of Programme Standards. The Forum was also mindful that *Celebrity Juice* was not scheduled either side of programmes that are likely to be watched or listened to by children, but was mindful of the closeness of the broadcast to the watershed. The Forum considered that, given the content, a stronger warning at the beginning of the broadcast may have been preferential. Nevertheless, having considered the programme in the context of the time of broadcast and audience expectation, the Forum did not find that the programme infringed the Code.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in the manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



**Complaint made by: Mr. Donal O’Sullivan-Latchford**

**Ref. No. 3/19**

**Station:**

Newstalk 106-108FM

**Programme:**

Lunchtime Live

**Date:**

12<sup>th</sup> October 2018

**1. Programme**

The complaint concerns Lunchtime Live, which is a lifestyle programme broadcast each weekday from 12 noon to 2pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.2, 4.3, 4.17, 4.19 and 4.22.

**3. Complaint Summary**

The complaint concerns an interview with a Senator regarding the decision by the UK Supreme Court in which they ruled that the owners of a bakery in Belfast did not discriminate against a gay man when they refused to bake a cake which featured a message in support of same-sex marriage. The complainant is of the view that the presenter, in suggesting that the decision was wrong, gave her own view contrary to Rule 4.22. Further, as there was no opposing view offered during this discussion, it unfairly represented one side of the argument. As the topic is a matter of public controversy, the complainant considers this be in contravention of the Code of Fairness, Objectivity & Impartiality.

The complainant argues that the item was not presented with due accuracy and believes that the views and facts were presented in a way which rendered them misleading. Overall, the complainant believes the programme failed to be fair, objective or impartial.

**4. Broadcaster Response**

The broadcaster states that this programme is an interactive talk radio show with a focus on social and current affairs. During the discussion on this item, the presenter did state “it did seem in my mind as well to fly in the face of natural justice” which the broadcaster claims is an authored view permitted under the BAI guidelines. This discussion was conducted under the Take on the Week segment, an informal discussion on the week’s news where listeners are invited to put forward their views following the topic under discussion. Furthermore, the broadcaster contends that the case concerning the bakery was not a matter of public controversy in an Irish Court of Law.

The broadcaster is of the view that the programme in its entirety was not in breach of the Code under fairness, objectivity or impartiality.



## **5. Decision of the Executive Complaints Forum Rejected (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.2, 4.3, 4.17, 4.19 and 4.22. The Code requires that the content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Forum noted that broadcasters are required to deal fairly with contributors, to facilitate a range of views and to ensure presenters do not express their own views such that a partisan position is advocated. The Forum had regard to the type of programme and the context of the interview. The programme is a mix of current affairs, lifestyle and human-interest stories. This segment included an interview with a Senator on the issue of a recent UK Supreme Court ruling that the owners of a Belfast bakery did not discriminate against a customer by refusing to make a cake supporting same-sex marriage. The discussion took place during a regular feature of the show called 'Take on the Week' in which a light-hearted review takes place of topical issues featured in the previous week.

The complainant takes issue with the presenter offering her own view criticising the decision of the Supreme Court. The Forum was of the view that the comments did not render the piece partial or unfair. Further, the Forum noted that the requirement for news and current affairs to be broadcast without any expression of the broadcaster's own views does not refer to individual presenters, rather to the entity which owns or operates the broadcast service. The Forum did not consider the comments to have infringed the requirements regarding fairness, objectivity and impartiality as stated by the complainant.

The Forum was also of the view that the complaint made under Rules 4.3, 4.17 & 4.19 were not infringed as the presenter dealt fairly with the contributor, the piece was presented with due accuracy and was not misleading, nor did the presenter's language or tone cause any misunderstanding of the matter covered.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and the Code in the manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



**Complaint made by: Mr. Michael Walsh**

**Ref. No. 6/19**

**Station:**

RTÉ One

**Programme:**

Nine O'Clock News

**Date:**

20<sup>th</sup> December 2018

**1. Programme**

The complaint refers to an item on the main evening news bulletin.

**2. Complaint Category**

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

**3. Complaint Summary**

The complaint refers to an item included in the review of significant events of 2018. One of the items featured related to the referendum regarding the Eighth Amendment to the Constitution. The complainant believes that the interview with the spokesperson, on behalf of an organisation promoting the repeal of the Amendment, failed to be a fair overview of the controversy. The complainant maintains that the interview was conducted in a very relaxed manner and there was no opposing viewpoint.

**4. Broadcaster Responses**

The broadcaster maintains that the item was part of a review sequence of major events in 2018 and was a reflective piece focused on one campaigner. As there was no 'live' issue to be determined, the broadcaster contends that the context of the item was equitable and proportionate.

**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 relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Forum noted that this report was part of a series of reports which looked back events during 2018. This report was prompted by the signing that day by the President, Michael D. Higgins, of the Bill legalising the termination of pregnancy. The report on the Together for Yes Campaign included an



interview with one of the leaders of the campaign. The Forum was of the view that this short account on the outcome of the Referendum was a human-interest story broadcast within the news. This piece was not an analysis or debate about the results of the Referendum. Instead, it was a review of an event which had already taken place. The Forum further noted that the broadcaster retains editorial independence regarding which stories are covered and the approach adopted when covering a topic.

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. On this basis the complaint was rejected.



**Complaint made by: Mr. Pól Ó Mongáin**

**Ref. No. 8/19**

**Station:**

RTÉ Radio One

**Programme:**

The Marian Finucane Show

**Date:**

9<sup>th</sup> December 2018

**1. Programme**

The complaint concerns The Marian Finucane Show, which 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.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1, 4.2 and 4.22.

**3. Complaint Summary**

The complainant states that in a segment around a discussion about referendums, the presenter stated that “we are good at voting for something altogether different in a referendum; certainly we did it in the European referendums a couple of times. Once, it was completely about abortion, I can’t remember what the other one was”. The complainant believes these comments made by the presenter, denigrated those who voted ‘No’ in the Nice and Lisbon Referendums. The complainant further maintains that the presenter did not support this assertion with facts. The complainant believes this could not have been done as it is impossible to know why people voted in the way they did. The complainant also believes that the presenter provided her personal view which infringed the requirements of the Code.

**4. Broadcaster Responses**

The broadcaster states that the complainant in quoting the presenter, excluded the beginning and the end of the remarks made by her. However, the full quote from the presenter began by stating “There’s another fear though.... we are good at voting for something altogether different in a referendum; certainly we did it in the European referendums a couple of times. Once, it was completely about abortion, I can’t remember what the other one was, or maybe just to give the government a clip on the ear”. The broadcaster maintains that the presenter’s initial comment should be seen in the context of the preceding conversation. Here the discussion was around the wisdom or not of effecting change through constitutional means, hence the statement beginning with “there’s another fear though...”.

The broadcaster maintains that the presenter was referencing the views that some people have with regard to some voting for reasons not directly linked to the issue on the ballot paper. The broadcaster states that it is self-evident that the presenter was referring to referendums in general and the



motivations for voting. The broadcaster also rejects any suggestion that the presenter was expressing a personal view.

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

Having considered the broadcast and the submissions from the complainant and the broadcaster, and also having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under Code of Fairness, Objectivity and Impartiality, Rules 4.1, 4.2 and 4.22. The Code requires that the content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views such that a partisan position is advocated. The Forum had regard to the type of programme and noted that it is a magazine style programme that contains element of current affairs, lifestyle and human-interest topics.

The segment complained of occurred in the context of a discussion about referendums and the consequences of addressing specific moral and social issues in the Irish Constitution. The Forum considered the comments made by the presenter which, in the view of the complainant, infringed the requirements regarding current affairs content. The Forum did not find any evidence to support the complainant's assertion regarding the presenter's comments in the context of the particular referendums referred to in the complaint. Therefore, the Forum concluded that the broadcast did not infringe the requirements of the Code and the complaint was rejected.



**Complaint made by: Mr. Declan O'Hara**

**Ref. No. 9/19**

**Station:**

Radio Nova

**Programme:**

The Colm & Lucy Breakfast Show

**Date:**

25<sup>th</sup> January 2019

**1. Programme**

The Breakfast Show is a mix of music and light banter between the presenters. This programme is broadcast each weekday from 6 to 10am.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(b) (harm & offence); the BAI Code of Programme Standards - Principle 3.

**3. Complaint Summary**

The complainant states that during a chat between two presenters, one presenter, who was standing in for one of the regular presenters, relayed a story about an incident in a play area involving her child and another child. The co-presenter stated that she grabbed and kicked one of the children. The complainant found this story contained harmful references and was unhappy that this story was aired.

**4. Broadcaster Responses**

The broadcaster states that the show is quite edgy and 'tongue in cheek' and states that the item in question was delivered in this manner. The actions referred to were of an exaggerated nature with the emphasis on entertainment rather than a real-life event. The broadcaster apologised for offending the complainant and stated that the content of the breakfast show is usually entertainment and should not be interpreted as serious.

**5. 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 relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under Principle 3 of the Code of Programme Standards. The Code requires broadcasters to take due care to ensure that audiences are not exposed to harmful content and must provide adequate information to audiences to allow them to make informed choices about what they listen to and watch. The Code acknowledges that, in enriching people's lives through entertainment, information and other programming, broadcasters must be free to make programmes that may be provocative or deal with sensitive issues.



The Forum had regard to the concerns of the complainant in respect of comments made by one of the presenters during a discussion about children's play centres. The Forum found it likely that some listeners may have found the comments offensive and, in this context, considered that the broadcaster could have exercised more care. However, the Forum noted that the comments were made in a light-hearted manner during a casual conversation between presenters, which is in keeping with the tone of the programme. In considering the type of programme and the channel, the Forum decided that audiences would likely expect this type of interaction and conversation between presenters. The Forum concluded that the comments, particularly in the context of the overall interaction, could not reasonably be considered as causing harm or encouraging people to imitate acts which are damaging to their health and safety.

The Forum was of the view that the content of this programme was such that it did not infringe the requirements of the Code of Programme Standards. On this basis, the complaint was rejected.

---ENDS---