



ÚDARÁS  
CRAOLACHÁIN  
NA hÉIREANN

BROADCASTING  
AUTHORITY  
OF IRELAND

**Broadcasting Authority of Ireland  
Broadcasting Complaints Decisions**

**December 2021**



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## **BAI Complaints Handling Process**

Viewers and listeners to Irish television and radio can complain about broadcasting content which they believe is not in keeping with the standards provided for in relevant provisions of the Broadcasting Act 2009 and/or the Broadcasting Authority of Ireland's Codes. Complaints are required to identify the relevant programme or commercial communication and the related date and time of broadcast. The complainant is asked to explain what it is about the broadcast that has led them to make a complaint and why the programme material or commercial content does not comply with the relevant legislation or BAI Codes. 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 general, the viewer or listener should direct their complaint to the broadcaster in the first instance and in the manner set out in the broadcaster's Code of Practice for Handling Complaints, a document which each broadcaster is required to have available on its website. If a complainant 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), the complaint may be referred to the BAI for consideration.

In assessing complaint referrals, the BAI has regard to the relevant legislation and Codes, the written material submitted by the relevant parties, together with the broadcast material. Complaints are assessed by the Executive Complaints Forum or by the Compliance Committee of the BAI. Further information may be found on the complaints handling section of the BAI's website: [www.bai.ie](http://www.bai.ie).

This document contains copies of the most recent complaints decisions made by the Compliance Committee and the Executive Complaints Forum. The decisions concern whether a programme or a commercial communication did or did not comply with the relevant legal requirements and/or Codes. The decisions do not constitute endorsement or support for the views of any party to a complaint nor do they address every aspect of a complaint submission. The BAI does not carry out a separate or independent assessment outside of the matters raised in the complaint.

During the period from August to October 2021, one (1) complaint was considered and rejected by the Compliance Committee of the BAI. Eleven (11) complaints were considered and rejected by the Executive Complaints Forum.

The decision of the Compliance Committee was reached at its meeting held on 8<sup>th</sup> September 2021, while the decisions of the Executive Complaints Forum were reached at meetings held on 10<sup>th</sup> August, 15<sup>th</sup> September and 5<sup>th</sup> October 2021.



## Rejected by Compliance Committee

<b>Complaint Reference Number</b>	<b>C5527</b>
<b>Complainant</b>	John Carroll, on behalf of Fine Gael
<b>Programme Name, Station and Broadcast Date and Time</b>	National Treasures: RTÉ One: 4 <sup>th</sup> July 2021 at 19:30 Six One News: RTÉ One: 2 <sup>nd</sup> July 2021 at 18:01 The Week in Politics: RTÉ One: 4 <sup>th</sup> July 2021 at 12:00 Today with Claire Byrne: RTÉ Radio 1: 5 <sup>th</sup> July 2021 at 10:00 Prime Time: RTÉ One: 6 <sup>th</sup> July 2021 at 21:35
<b>Programme Description</b>	Related broadcasts, covering the Dublin Bay South bye-election
<b>Complaint Category</b>	Broadcasting Act 2009 – Section 48(1)(a) (Fairness, Objectivity and Impartiality in News and Current Affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – rules 4.1 and 4.2

### Complaint Summary

The complaint concerns the inclusion of one Dublin Bay South bye-election candidate in a lifestyle programme, National Treasures, which was broadcast during the election campaign.

The complainant believes it was unfair for the Labour Party candidate to feature in a lifestyle programme, just three days out from polling day in a bye-election, where a person is unchallenged in their contributions and can be presented in a positive way.

The complainant was not satisfied with the proposal from the broadcaster to remedy this matter by having an extended filmed report on Prime Time. The complainant believes this would not offer comparable exposure to that given to the Labour Party candidate in the National Treasures programme and noted the Labour Party candidate would also feature in the extended report. The complainant did not believe the proposed report would remedy the unfairness in how the candidates had been treated in the coverage. The complainant believes the only acceptable recompense would have been to provide similar coverage to other candidates.

The complainant is satisfied for the complaint to be considered in the context of the broadcaster's television coverage of the bye-election but does not accept that the broadcaster's coverage on radio should be taken into account because the complainant believes it is not comparable to television.

### Broadcaster Response Summary

The broadcaster states that the broadcast of an episode of National Treasures featuring one of the bye-election candidates was an inadvertent error and should not have happened.

The broadcaster states that the RTÉ Election Steering Group became aware of the broadcast of National Treasures within minutes of transmission and took action to remove the broadcast from the RTÉ Player and from RTÉ +One, thereby limiting the availability of the broadcast. The broadcaster commissioned an extended constituency report on the Dublin Bay South bye-election to air on Prime



Time on 6<sup>th</sup> July 2021. The broadcaster initiated a review of processes and systems for checking content of repeat programmes to identify any additional measures to put in place during election periods to prevent a recurrence of this error.

The broadcaster is of the view the extended report on Prime Time was the most appropriate platform to ensure fairness to all interests and notes there is no requirement to provide equal allocation of time between candidates in order to achieve fairness in the coverage. The broadcaster also notes that the audience for Prime Time was directly comparable to that of National Treasures and would be an audience interested in current affairs and political issues.

The broadcaster notes that the Fine Gael candidate, along with other bye-election candidates, featured across the broadcaster's bye-election coverage on the Six One News on RTÉ One on 2<sup>nd</sup> July, The Week in Politics on RTÉ One on 4<sup>th</sup> July and on Today with Claire Byrne on RTÉ Radio 1 on 5<sup>th</sup> July. The broadcaster believes all candidates received significant and substantial exposure in this coverage and, along with the Prime Time report, the coverage ensured fairness to all interests contesting the bye-election.

The broadcaster believes its coverage of the bye-election was fully compliant with the relevant statutory and regulatory provisions.

The broadcaster is of the view that the complaint ought to be considered in the context of its bye-election coverage across radio and television because the broadcaster manages its election coverage across both mediums, both have national audiences and, in recent years, radio coverage is streamed live for viewing online.

#### **Decision of the Compliance Committee**

Having considered the broadcasts 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 reasons for the Committee's decision are set out below.

The complaint is made under rules 4.1 and 4.2 of the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires current affairs to be fair to all interests concerned and to be presented in an objective and impartial manner, without any expression of the broadcaster's own views, which may be achieved across two or more related broadcasts. In the treatment of news and current affairs, broadcasters are required to comply with the Code's principles of fairness; objectivity and impartiality; accuracy and responsiveness; and, transparency and accountability.

The Committee first considered the matter of which broadcasts were related in the context of this complaint. The Committee noted the broadcaster had planned its approach to achieving fairness in its bye-election coverage across television and radio together and this approach was set out in writing prior to the bye-election and circulated to the candidates and made available on the broadcaster's website. On this basis, the Committee was satisfied to deem the television and radio broadcasts referenced in the broadcaster's submission related broadcasts.



The Committee then considered the complainant's view that there was unfairness in the broadcaster's bye-election coverage across the related broadcasts because of the appearance of one election candidate in a repeat broadcast of National Treasures. The Committee noted the National Treasures broadcast did not include any reference to the candidate's political life, the bye-election or politics more generally. The Committee was of the view the programme should not have been broadcast during an election period, but was, nonetheless, satisfied that fairness was achieved across the totality of the bye-election coverage and there was no infringement of the Code.

The Committee expressed concern that the programme had been broadcast in error during a bye-election period when broadcasters ought to take particular care that current affairs broadcasts comply with the Code. However, the Committee positively noted the timely and appropriate action taken by the broadcaster to remedy the error, by removing the programme from the RTÉ Player and offering extended coverage to the bye-election candidates.

The Committee concluded the broadcasts had not infringed the relevant provisions of the Broadcasting Act 2009 or the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. On this basis, the Committee rejected the complaint.



## Rejected by Executive Complaints Forum

<b>Complaint Reference Number</b>	C5528
<b>Complainant</b>	Patrick Devitt
<b>Station</b>	Newstalk 106 -108 FM
<b>Programme Name</b>	The Pat Kenny Show
<b>Broadcast Date</b>	17 <sup>th</sup> June 2021
<b>Broadcast Time</b>	09:00
<b>Programme Description</b>	News and current affairs programme
<b>Complaint Category</b>	Broadcasting Act 2009 – Section 48(1)(a) (Fairness, Objectivity and Impartiality in News and Current Affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – rules 4.21 and 4.22

### Complaint Summary

The complaint concerns the science segment of the programme that deals with matters related to Covid-19.

The complainant is of the view that there is a lack of objectivity and fairness in this segment of the programme and that it tends to a one-sided promotion of antigen testing and “sneering” at NPHET positions.

The complainant found one remark particularly biased and lacking in evidence. The remark was that thousands of lives would have been saved if the Government had used antigen-testing at the time of the new wave of infection in December/January last. The complainant believes this remark has no basis in fact, but that it is consistent with the bias of this segment. The complainant is also of the view that the remark could potentially cause distress to families who lost a loved-one during that time.

### Broadcaster Response Summary

The broadcaster rejects the complainant’s views that this segment of the programme lacks objectivity and fairness and that it is a one-sided promotion of antigen testing and is sneering at NPHET positions.

The broadcaster states that this programme has been very conscientious in delivering the evolving science and research in relation to Covid-19. The broadcaster notes that the regular contributor to this segment of the programme is listed in the field of Immunology on the 2020 Highly Cited Researchers list published by Clarivate, compiling the top one percent of the world’s researchers by citations.

In relation to the specific remark raised in the complaint, the broadcaster states that it is accepted by all in government that mistakes were made last Christmas and it is fair comment to suggest that the use of antigen testing could have been a help.



#### **Decision of Executive Complaints Forum**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's 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 4.21 and 4.22. The Code provides that news presenters and reporters in a news programme may not express their own views on matters of public controversy or current public debate. Current affairs presenters must ensure the audience has access to a wide variety of views on a subject and must reflect the views of those who cannot or choose not to, participate in content. Current affairs presenters shall not express their own views on matters that are either of public controversy or current public debate such that a partisan position is advocated.

The Forum noted the content complained of was a recurring segment of the programme in which matters related to Covid-19 are discussed with an expert contributor. The discussion covered antigen testing, Covid-19 medical treatments and Covid-19 vaccines.

The Forum deemed this segment current affairs and not a news programme and, therefore, rule 4.21 is not applicable.

In considering whether the content infringed rule 4.22, the Forum noted that the Code does not require programmes to feature all viewpoints on an issue to be fair, objective and impartial in its treatment of a subject. However, there is an expectation the presenter will ensure discussions of news and current affairs issues are not one-sided and that alternative perspectives are presented. In this regard, the Forum noted the editorial approach to this segment is to have an expert discuss the latest developments in the Covid-19 pandemic, and the public health responses to it, from a scientific perspective. The expert also responds to queries from the public about the science-related aspects of the pandemic. In this broadcast, the discussion about antigen testing covered factual matters in relation to what these tests are for and how they should be used and interpreted by users. The discussion included criticism of the Government's position on antigen testing, however, the Forum was satisfied that the segment was objective and fair in how the issue was handled in this context.

The Forum also considered the complainant's view there was no factual basis for the remark that "thousands of lives would have been saved" if antigen testing had been used in December and January. The Forum found no such remark in the broadcast, however, the presenter did say, "Many people died, around the Christmas period particularly, who need not have died if they had had serial antigen testing in nursing homes". The Forum acknowledged this remark constituted an expression of an opinion from the presenter, seemingly based on the preceding discussion with the expert on factual matters related to antigen testing. The Forum noted the role of a current affairs presenter is to facilitate debate on matters of public controversy and current public debate and this can sometimes involve robustly challenging the views and positions of public representatives and the Government. Having considered this comment in the context of the whole programme, the Forum was satisfied the presenter did not advocate a partisan position on the matter.





The Forum decided the segment did not infringe the relevant provisions of the Broadcasting Act, 2009 or the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. Accordingly, the Forum rejected the complaint.



<b>Complaint Reference Number</b>	<b>C5530</b>
<b>Complainant</b>	Ian Bradley
<b>Station</b>	RTÉ Radio 1
<b>Programme Name</b>	The Ryan Tubridy Show
<b>Broadcast Date</b>	12 <sup>th</sup> July 2021
<b>Broadcast Time</b>	09:00
<b>Programme Description</b>	Entertainment and lifestyle magazine programme
<b>Complaint Category</b>	Broadcasting Act 2009 – Section 48(1)(b) (Harm and Offence) BAI Code of Programme Standards – Principle 5

#### **Complaint Summary**

The complaint concerns comments made by the presenter on the morning following the Euro 2020 Final between England and Italy.

The complainant believes the presenter engaged in “lazy stereotyping” of England football fans and made several offensive comments in this regard. The complainant believes the presenter’s comments on domestic violence were offensive and his comments about racism were also offensive because the presenter did not put this in context of EU data on the experience of racial harassment across the EU. The complainant believes it was offensive for the presenter to say that many England football fans were involved in bad behaviour. The complainant claims it was offensive and irresponsible of the presenter to imply that all the racist social media messages were sent by England fans and it was irresponsible of the presenter not to reflect the possibility that Irish people sent some of those messages. The complainant also believes it was offensive of the presenter to read out “biased” messages from listeners that supported the presenter’s views and to lecture the listener who had called him anti-English. The complainant believes it was offensive to not mention the disorder in Paris after the 2016 Final or the riots by PSG fans after the 2020 Champions League Final.

The complainant believes the presenter stating he is not anti-English does not mean his comments are not anti-English. In fact, the complainant is of the view that stating this was a clear signal the presenter knew he had “crossed a line”.

#### **Broadcaster Response Summary**

The broadcaster states that the style of the programme is for the presenter to “muse over” news stories, using open-ended questions to engage listeners with the programme and get them to express their views by email, text and social media.

The broadcaster notes the presenter opened the discussion about the Euro Final between England and Italy by saying that he was very keen to see England in the Final and it was great they were there as it added to the excitement around the match. The broadcaster observes the presenter went on to discuss the violence and racial abuse surrounding the event and believes the presenter’s comments reflected the widespread criticism of the violent disturbances and racial abuse that



became the main topic of discussion across most radio and television across the globe, including the UK and Ireland.

The broadcaster is of the view the presenter's comments were not anti-English and notes that the facts of the matter are that there was racial abuse of players, that this abuse was widely reported and condemned, and that some England fans engaged in violence and broke security at the stadium.

With reference to the position on "offence" set out in the Code of Programme Standards, the broadcaster is of the view the presenter's comments were not unduly offensive and did not cross a line. The broadcaster states the comments were not and did not purport to be a comprehensive analysis of all possible explanations for the various events but rather they were a reflection on those events and how they were covered in the media. The broadcaster believes the comments were in keeping with the well-established style and manner of the presenter and audience expectations of the programme.

The broadcaster believes there is no basis to uphold this complaint.

#### **Decision of Executive Complaints Forum**

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

The Forum noted the complaint was submitted under the Code Programme Standards, Principle 5. The Code requires that the manner in which persons and groups in society are represented shall be appropriate and justifiable and not prejudice respect for human dignity. The Code also provides that programme material shall not stigmatise, support or condone discrimination or incite hatred against persons or groups in society.

The segment complained of was the presenter reflecting on the news stories of the morning and, on this day, the main story was the events surrounding the previous night's Euro 2020 Final between England and Italy, including violence at and around the stadium on the night of the match and racist comments directed at some of England's players on social media. The presenter offered his views on these events and read out comments from social media.

In considering whether the content stereotyped English people or football fans in such a way as to contravene the above-mentioned legislative and Code provisions, the Forum noted the presenter did not make any generalised statements about English people or even English football fans but spoke specifically about the previous night's events and the people involved in violence and/or racism. The presenter noted that these events were *"a horrible reflection of the worst of England"* and noted some England football fans *"turn"* on the team and the manager when the team loses a match, stating *"not all of them, lots of people"*. In speaking about the people involved in this behaviour towards the end of the segment, the presenter stated, *"And again, like we said last week, it's a group of people, it's not the team themselves, who are very highly regarded. The manager is very highly regarded. It was just a horrible outcome from what should have been a joyful occasion."*



The Forum noted the presenter praised Arsenal and Manchester United football clubs for condemning the racial abuse aimed at the football players and for supporting those players. In relation to domestic abuse, the presenter quoted a statistic about incidences of such abuse increasing when England lose football matches and commented on an organisation that was providing support for women in these situations on the night of the match. The Forum found no evidence in this content of the presenter stigmatising English people or supporting or condoning discrimination against English people or inciting hatred against English people. The Forum found the comments made by the presenter were appropriate and justifiable in the context of the news story that was covered.

The Forum acknowledges the complainant was offended by the content, however, the Code recognises that matters which cause offence can differ from person to person and are largely subjective in nature and, consequently, there can be no guarantee that programme material will be free from offence and there is no right not to be offended. However, broadcasters must not broadcast content that would cause undue offence, that is, programme material that could still be regarded as having crossed a line, having taken into account the relevant contextual factors. Based on the above considerations, the Forum did not believe the broadcast had been unduly offensive.

The Forum decided the programme did not infringe the relevant provisions of the Broadcasting Act, 2009 or the Code of Programme Standards. Accordingly, the Forum rejected the complaint.



<b>Complaint Reference Number</b>	<b>C5532</b>
<b>Complainant</b>	Brendan O'Regan
<b>Station</b>	RTÉ Radio 1
<b>Programme Name</b>	Today with Claire Byrne
<b>Broadcast Date</b>	10 <sup>th</sup> May 2021
<b>Broadcast Time</b>	10:00
<b>Programme Description</b>	News, current events and features programme
<b>Complaint Category</b>	Broadcasting Act 2009 – Section 48(1)(a) (Fairness, Objectivity and Impartiality in News and Current Affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – rules 4.1, 4.2, 4.18 and 4.22

#### Complaint Summary

The complaint concerns an item on the programme about the three-year Government review of the Health (Regulation of Termination of Pregnancy) Act 2018.

The complainant believes the item was not fair, objective or impartial because it included three pro-choice contributors and only one pro-life contributor, which marginalised the pro-life perspective on the issue. The complainant also believes the presenter did not challenge the contributors' views or facilitate the exploration of alternative viewpoints.

The complainant requests this complaint be considered a complaint about an individual broadcast *and* a complaint about four related broadcasts, which include this programme and the following three programmes:

- *Sunday With Miriam*, RTÉ Radio 1, 16<sup>th</sup> May 2021
- *Drivetime*, RTÉ Radio 1, 18<sup>th</sup> May 2021
- *Morning Ireland*, RTÉ Radio 1, 25<sup>th</sup> May 2021

The complainant is of the view these broadcasts are related because they cover the same issue, they were broadcast in a short period of time and they are “part of a pattern”.

#### Broadcaster Response Summary

The broadcaster states that this programme and the three other programmes referenced in the complaint are four individual and separate programmes and they are not ‘related broadcasts’. The broadcaster references the following provision of the BAI Guidance Notes for the Code of Fairness, Objectivity and Impartiality in News and Current Affairs in support of this view:

*“However, the key principle that should guide the broadcaster’s decision in respect of linked broadcasts is audience knowledge. Broadcasters should use appropriate mechanisms to notify audiences whether the subject covered is as part of a series or whether alternative views will be covered in another programme. The BAI will not generally consider a broadcast*

*to be linked if such a link is made ‘retrospectively’ following receipt of a complaint.”*  
[Underlined is the broadcaster’s emphasis]

The broadcaster states the context for the reports on the above-mentioned programmes is the upcoming Government review of the Health (Regulation of Termination of Pregnancy) Act 2018, but notes there is no current debate before the public on whether or not abortion services should or should not be legally provided because that issue was decided by referendum in 2018.

The broadcaster states the report in this programme informed listeners of the upcoming review of the legislation and of various factual matters in relation to it. The broadcaster believes the report included a range of views on the topic and was a fair analysis of the upcoming review.

The broadcaster is of the view the broadcast was fully compliant with its statutory and regulatory obligations.

#### **Decision of Executive Complaints Forum**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum’s 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, 4.18 and 4.22. The Code requires current affairs to be fair to all interests concerned and to be presented in an objective and impartial manner, without any expression of the broadcaster’s own views. In the treatment of news and current affairs, broadcasters are required to comply with the Code’s principles of fairness; objectivity and impartiality; accuracy and responsiveness; and transparency and accountability. Current affairs presenters must ensure the audience has access to a wide variety of views on a subject and must reflect the views of those who cannot or choose not to, participate in content. The Code allows for two or more related broadcasts to be considered as a whole if the broadcasts are transmitted within a reasonable time period and such links are made clear to the audience.

The broadcast is a report on the upcoming three-year review of the Health (Regulation of Termination of Pregnancy) Act 2018, which included recorded interviews with a professor specialising in constitutional law, a past President of the Irish College of General Practitioners, the chair of a group of pro-life politicians, a representative of the Abortion Rights Campaign, and a representative from a group supporting women who travel to the UK for abortions.

Firstly, the Forum considered the applicability of rule 4.18 and whether this broadcast was related to the three other broadcasts referenced in the complaint. The Forum noted that while the broadcasts covered the broad topic of abortion, they each had a distinct editorial approach and angle to the topic. The Forum noted there was no mechanism used in the broadcasts to link them or to notify the audience the broadcasts were related, and, in addition, it is clear from the broadcaster’s submission that no such link was intended. The Forum further noted that it is not the intention of rule 4.18 to allow links to be made between broadcasts retrospectively or solely on the basis they cover the same



topic. Considering these factors, the Forum was satisfied the four broadcasts are not related broadcasts and rule 4.18 does not apply.

In considering the complainant's view the item was not fair, objective or impartial because it included three pro-choice contributors and only one pro-life contributor, the Forum noted the item was not a debate or discussion about abortion, but rather a report on factual matters in relation to the upcoming review of legislation, including the process of that review, the operation of the legislation to date, and the likely issues to be considered in the review. The item included a range of perspectives on the topic covering the law, medical practitioners, politicians and civil society groups. The Forum noted the issues raised in relation to the operation of the legislation came from both the perspective of those who would prefer more restrictions on abortion availability and those who would prefer fewer restrictions. Given the topic of the report was a review of abortion law and not a debate about abortion, the Forum was satisfied the audience was provided with a sufficiently wide range of views to meet the requirements of fairness, objectivity and impartiality. In this regard, the Forum noted there is no requirement in the Code for programmes covering the topic of abortion to have a pro-life versus pro-choice editorial approach in order to achieve fairness, objectivity and impartiality.

In considering the complainant's view the presenter did not challenge the contributors' views or facilitate the exploration of alternative viewpoints, the Forum noted the format of the item was a report and not a live panel debate or discussion. The report included excerpts from pre-recorded interviews with the above-mentioned range of contributors, where each was given time to present their views on their specific area of interest in this topic. The Forum was satisfied the broadcast provided a range of viewpoints on the topic covered and did not infringe the requirements of fairness, objectivity and impartiality.

The Forum concluded the broadcast did not infringe the relevant provisions of the Broadcasting Act, 2009 or the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. Accordingly, the Forum rejected the complaint.



<b>Complaint Reference Number</b>	<b>C5533</b>
<b>Complainant</b>	Brendan O'Regan
<b>Station</b>	RTÉ Radio 1
<b>Programme Name</b>	Sunday with Miriam
<b>Broadcast Date</b>	16 <sup>th</sup> May 2021
<b>Broadcast Time</b>	10:00
<b>Programme Description</b>	News, current affairs, human interest and lifestyle programme
<b>Complaint Category</b>	Broadcasting Act 2009 – Section 48(1)(a) (Fairness, Objectivity and Impartiality in News and Current Affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – rules 4.1, 4.2, 4.18 and 4.22

#### Complaint Summary

The complaint concerns an interview with two pro-choice campaigners regarding the release of the upcoming documentary, "The 8<sup>th</sup>", which coincided with an upcoming three-year Government review of the Health (Regulation of Termination of Pregnancy) Act 2018.

The complainant believes the context of the upcoming review of legislation means the interview discussed a topic that is the subject of current public debate.

The complainant is of the view the interview infringed rules 4.1 and rule 4.22 of the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs by featuring two pro-choice activists and not including any pro-life contributors. The complainant believes this marginalised the pro-life perspective, despite one third of the electorate voting against the repeal of the Eighth Amendment in 2018.

The complainant believes the broadcast further infringed rule 4.22 of the Code because the interviewer did not redress the imbalance of contributors' views by 'forceful questioning' and because the interviewer did not ensure there was a wide variety of views on the subject.

The complainant requests this be considered a complaint about an individual broadcast *and* a complaint about four related broadcasts, which include this programme and the following three programmes:

- *Today with Claire Byrne*, RTÉ Radio 1, 10<sup>th</sup> May 2021
- *Drivetime*, RTÉ Radio 1, 18<sup>th</sup> May 2021
- *Morning Ireland*, RTÉ Radio 1, 25<sup>th</sup> May 2021

The complainant is of the view these broadcasts are related because they cover the same issue, they were broadcast in a short period of time and they are "part of a pattern".



### Broadcaster Response Summary

The broadcaster states that this programme and the three other programmes referenced in the complaint are four individual and separate programmes and they are not 'related broadcasts'. The broadcaster references the following provision of the BAI Guidance Notes for the Code of Fairness, Objectivity and Impartiality in News and Current Affairs in support of this view:

*"However, the key principle that should guide the broadcaster's decision in respect of linked broadcasts is audience knowledge. Broadcasters should use appropriate mechanisms to notify audiences whether the subject covered is as part of a series or whether alternative views will be covered in another programme. The BAI will not generally consider a broadcast to be linked if such a link is made 'retrospectively' following receipt of a complaint."*  
[Underlined is the broadcaster's emphasis]

The broadcaster states the context for the interview was the planned release of a documentary film, "The 8<sup>th</sup>", which deals with the campaign run by those who sought the repeal of the Eighth Amendment. The broadcaster is of the view the interview was not a discussion on the campaign issues *per se*, but about the personal motivations and experiences of the two interviews in the campaign.

The broadcaster points out that fairness does not always require that two sides of an argument are presented and also notes that the presenter asked the interviewees about their views on those who had voted against repeal and those opposed to abortion.

The broadcaster believes the broadcast was fully compliant with the broadcaster's statutory and regulatory obligations.

### Decision of Executive Complaints Forum

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's 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, 4.18 and 4.22. The Code requires current affairs to be fair to all interests concerned and to be presented in an objective and impartial manner, without any expression of the broadcaster's own views. In the treatment of news and current affairs, broadcasters are required to comply with the Code's principles of fairness; objectivity and impartiality; accuracy and responsiveness; and transparency and accountability. Current affairs presenters must ensure the audience has access to a wide variety of views on a subject and must reflect the views of those who cannot or choose not to, participate in content. The Code allows for two or more related broadcasts to be considered as a whole if the broadcasts are transmitted within a reasonable time period and such links are made clear to the audience.

The content complained of was an interview with two women who had been involved in the campaign to repeal the 8th Amendment to the Irish Constitution 2018. The context of the interview was the upcoming release of a documentary about this campaign, which featured these two women.

Firstly, the Forum considered the applicability of rule 4.18 and whether this broadcast was related to the three other broadcasts referenced in the complaint. The Forum noted that while the broadcasts covered the broad topic of abortion, they each had a distinct editorial approach and angle to the topic. The Forum noted there was no mechanism used in the broadcasts to link them or to notify the audience the broadcasts were related, and, in addition, it is clear from the broadcaster's submission that no such link was intended. The Forum further noted that it is not the intention of rule 4.18 to allow links to be made between broadcasts retrospectively or solely on the basis they cover the same topic. Considering these factors, the Forum was satisfied the four broadcasts are not related broadcasts and rule 4.18 does not apply.

In considering the complainant's view that there was a lack of objectivity and fairness in the programme as no pro-life contributor was featured, the Forum noted the programme content was a discussion about the two women's personal experience of political activism and campaigning and it was not a panel discussion or debate about abortion generally. The subject was topical because a documentary about the political campaign to repeal the 8th Amendment was due to be released and these two women featured in that documentary. The editorial approach to the programme was not to re-run or re-open broader debates about abortion that were had during the referendum campaign, but rather to interview the women about their experiences. The Code recognises that a broadcaster has editorial freedom to choose the topics it wishes to cover, its editorial approach to covering those topics and to have contributors of its choice discuss those topics. The Forum was satisfied this was a legitimate editorial approach to the topic, that the selection of contributors reflected the chosen approach and that the programme offered an appropriate range of views on the topic.

In considering the complainant's view that the contributors were not sufficiently challenged by the presenter, the Forum noted the Code does not require an adversarial approach to the treatment of current affairs or for contributors to be challenged on their personal experiences in order to ensure fairness, objectivity and impartiality in the content. In this regard, the Forum concluded the manner in which the contributors were interviewed was appropriate in the context of the subject matter of the programme.

The Forum decided the programme did not infringe the relevant provisions of the Broadcasting Act, 2009 or the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. Accordingly, the Forum rejected the complaint.



<b>Complaint Reference Number</b>	<b>C5534</b>
<b>Complainant</b>	Brendan O'Regan
<b>Station</b>	RTÉ Radio 1
<b>Programme Name</b>	Drivetime
<b>Broadcast Date</b>	18 <sup>th</sup> May 2021
<b>Broadcast Time</b>	16:30
<b>Programme Description</b>	News and current affairs programme
<b>Complaint Category</b>	Broadcasting Act 2009 – Section 48(1)(a) (Fairness, Objectivity and Impartiality in News and Current Affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – rules 4.1, 4.2, 4.18 and 4.22

#### Complaint Summary

The complaint concerns a report on the programme about abortion provision in Sligo in the context of the upcoming three-year Government review of the Health (Regulation of Termination of Pregnancy) Act 2018.

The complainant believes the context of the upcoming review of legislation means the interview discussed a topic that is the subject of current public debate.

The complainant is of the view the report did not meet the requirements of fairness, objectivity and impartiality of the Code because it featured three pro-choice perspectives and no pro-life perspectives. The complainant contends the broadcast infringed rule 4.22 of the Code because the presenter did not ensure the audience had access to a wide variety of views on the subject and because the presenter did not ask challenging questions of the contributors. The complainant states the report excluded the views of pro-life campaigners, the views of those who voted No to repeal the Eighth Amendment and the views of doctors in Sligo who conscientiously object to carrying out abortions.

The complainant believes the report came across as a campaigning piece with the aim of putting pressure on the Government to increase abortion access.

The complainant requests this be considered a complaint about an individual broadcast *and* a complaint about four related broadcasts, which include this programme and the following three programmes:

- *Today with Claire Byrne*, RTÉ Radio 1, 10<sup>th</sup> May 2021
- *Sunday With Miriam*, RTÉ Radio 1, 16<sup>th</sup> May 2021
- *Morning Ireland*, RTÉ Radio 1, 25<sup>th</sup> May 2021

The complainant is of the view these broadcasts are related because they cover the same issue, they were broadcast in a short period of time and they are “part of a pattern”.

### Broadcaster Response Summary

The broadcaster states that this programme and the three other programmes referenced in the complaint are four individual and separate programmes and they are not 'related broadcasts'. The broadcaster references the following provision of the BAI Guidance Notes for the Code of Fairness, Objectivity and Impartiality in News and Current Affairs in support of this view:

*"However, the key principle that should guide the broadcaster's decision in respect of linked broadcasts is audience knowledge. Broadcasters should use appropriate mechanisms to notify audiences whether the subject covered is as part of a series or whether alternative views will be covered in another programme. The BAI will not generally consider a broadcast to be linked if such a link is made 'retrospectively' following receipt of a complaint."*  
[Underlined is the broadcaster's emphasis]

The broadcaster states the context for the reports on the above-mentioned programmes is the upcoming Government review of the Health (Regulation of Termination of Pregnancy) Act 2018, but notes there is no current debate before the public on whether or not abortion services should or should not be legally provided because that issue was decided by referendum in 2018.

The broadcaster states the report was not a debate on whether or not abortion services should be provided but rather it was about how accessible those services are, with a specific focus on Sligo because no GPs in Sligo had signed up to provide abortion services that are available under law.

The broadcaster believes it is editorially appropriate to carry a report that looked at a county where abortion services are not accessible in the context of such services now being lawful and where the legislation allowing for such services is under review.

The broadcaster believes the broadcast was fully compliant with the broadcaster's statutory and regulatory obligations.

### Decision of Executive Complaints Forum

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's 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, 4.18 and 4.22. The Code requires current affairs to be fair to all interests concerned and to be presented in an objective and impartial manner, without any expression of the broadcaster's own views. In the treatment of news and current affairs, broadcasters are required to comply with the Code's principles of fairness; objectivity and impartiality; accuracy and responsiveness; and transparency and accountability. Current affairs presenters must ensure the audience has access to a wide variety of views on a subject and must reflect the views of those who cannot or choose not to, participate in content. The Code allows for two or more related broadcasts to be considered as a whole if the broadcasts are transmitted within a reasonable time period and such links are made clear to the audience.

The broadcast complained of was a report concerning the Government review of the Health (Regulation of Termination of Pregnancy) Act 2018 and claims made by campaigners that the Government has failed to implement national health policy fully across the country, in particular, in Co. Sligo. The report included pre-recorded interviews with one woman in Sligo with a crisis pregnancy, a General Practitioner in Roscommon providing abortion services, and a representative of Sligo Action for Reproductive Rights Access group.

Firstly, the Forum considered the applicability of rule 4.18 and whether this broadcast was related to the three other broadcasts referenced in the complaint. The Forum noted that while the broadcasts covered the broad topic of abortion, they each had a distinct editorial approach and angle to the topic. The Forum noted there was no mechanism used in the broadcasts to link them or to notify the audience the broadcasts were related, and, in addition, it is clear from the broadcaster's submission that no such link was intended. The Forum further noted that it is not the intention of rule 4.18 to allow links to be made between broadcasts retrospectively or solely on the basis they cover the same topic. Considering these factors, the Forum was satisfied the four broadcasts are not related broadcasts and rule 4.18 does not apply.

In considering the complainant's view the item was not fair, objective or impartial because it included three pro-choice contributors and no pro-life contributor, the Forum noted the item was not a debate or discussion about abortion, but rather a report on the availability of abortion services, as provided for under Health (Regulation of Termination of Pregnancy) Act 2018, with a focus on an area of the country where those services are not currently available. The item had a range of perspectives on the topic including a service user, a service provider and a campaigner for better service provision. Considering the topic of the report, the Forum was satisfied the audience was provided with a sufficiently wide range of views to meet the requirements of fairness, objectivity and impartiality. In this regard, the Forum noted there is no requirement in the Code for programmes covering the topic of abortion to have a pro-life versus pro-choice editorial approach in order to achieve fairness, objectivity and impartiality.

In considering the complainant's view the presenter did not challenge the contributor's views or facilitate the exploration of alternative viewpoints, the Forum noted the format of the item was a report and not a live panel debate or discussion. The report included excerpts from pre-recorded interviews with the above-mentioned range of contributors, where each was given time to present their views on their specific area of interest in this topic. The Forum was satisfied the broadcast provided a range of viewpoints on the topic covered and did not infringe the requirements of fairness, objectivity and impartiality.

The Forum decided the programme did not infringe the relevant provisions of the Broadcasting Act, 2009 or the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. Accordingly, the Forum rejected the complaint.



<b>Complaint Reference Number</b>	<b>C5535</b>
<b>Complainant</b>	Brendan O'Regan
<b>Station</b>	RTÉ Radio 1
<b>Programme Name</b>	Morning Ireland
<b>Broadcast Date</b>	25 <sup>th</sup> May 2021
<b>Broadcast Time</b>	07:00
<b>Programme Description</b>	News and current affairs programme
<b>Complaint Category</b>	Broadcasting Act 2009 – Section 48(1)(a) (Fairness, Objectivity and Impartiality in News and Current Affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – rules 4.1, 4.2, 4.18 and 4.22

#### Complaint Summary

The complaint concerns an interview with the Director of the National Women's Council of Ireland (NWCi) about an NWCi report showing the difficulties in accessing abortion in parts of the country. The report was issued in the context of an upcoming three-year Government review of the Health (Regulation of Termination of Pregnancy) Act 2018.

The complainant noted the interviewee offered a range of pro-choice views on the current legislation and the pro-life perspective was “written out of the narrative”. The complainant believes the interviewee was not sufficiently challenged in the interview given the editorial approach not to include a pro-life contributor. The complainant believes the narrative on this story across the day was “commandeered” by the NWCi report, which was a failure of the broadcaster’s obligation to be fair, impartial and objective.

The complainant requests this be considered a complaint about an individual broadcast *and* a complaint about four related broadcasts, which include this programme and the following three programmes:

- *Today with Claire Byrne*, RTÉ Radio 1, 10<sup>th</sup> May 2021
- *Sunday With Miriam*, RTÉ Radio 1, 16<sup>th</sup> May 2021
- *Drivetime*, RTÉ Radio 1, 18<sup>th</sup> May 2021

The complainant is of the view these broadcasts are related because they cover the same issue, they were broadcast in a short period of time and they are “part of a pattern”.

#### Broadcaster Response Summary

The broadcaster states that this programme and the three other programmes referenced in the complaint are four individual and separate programmes and they are not ‘related broadcasts’. The broadcaster references the following provision of the BAI Guidance Notes for the Code of Fairness, Objectivity and Impartiality in News and Current Affairs in support of this view:

*“However, the key principle that should guide the broadcaster’s decision in respect of linked broadcasts is audience knowledge. Broadcasters should use appropriate mechanisms to notify audiences whether the subject covered is as part of a series or whether alternative views will be covered in another programme. The BAI will not generally consider a broadcast to be linked if such a link is made ‘retrospectively’ following receipt of a complaint.”*  
[Underlined is the broadcaster’s emphasis]

The broadcaster states the context for the reports on the above-mentioned programmes is the upcoming Government review of the Health (Regulation of Termination of Pregnancy) Act 2018, but notes there is no current debate before the public on whether or not abortion services should or should not be legally provided because that issue was decided by referendum in 2018.

The broadcaster states this was a news interview with the Director of NWCI to discuss the findings of NWCI’s report in relation to abortion services in Ireland, which the broadcaster believes is an editorially appropriate item given the context. The broadcaster notes there is no statutory or regulatory requirement to have a “dissenting voice” in every item. The broadcaster also refutes the complainant’s view that the interviewee was not sufficiently challenged, noting the presenter put it to the interviewee that doctors were promised they would have a right to conscientious objection and that any change to the 12-week limit might concern those people who voted for abortion on this basis.

The broadcaster believes the broadcast was fully compliant with the broadcaster’s statutory and regulatory obligations.

#### **Decision of Executive Complaints Forum**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum’s 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, 4.18 and 4.22. The Code requires current affairs to be fair to all interests concerned and to be presented in an objective and impartial manner, without any expression of the broadcaster’s own views. In the treatment of news and current affairs, broadcasters are required to comply with the Code’s principles of fairness; objectivity and impartiality; accuracy and responsiveness; and transparency and accountability. Current affairs presenters must ensure the audience has access to a wide variety of views on a subject and must reflect the views of those who cannot or choose not to, participate in content. The Code allows for two or more related broadcasts to be considered as a whole if the broadcasts are transmitted within a reasonable time period and such links are made clear to the audience.

The broadcast is an interview with a representative of the National Women’s Council of Ireland (NCWI) regarding the publication of a NWCI research report on the availability of abortion services. The context of the report publication was the third anniversary of the vote to repeal the 8<sup>th</sup> Amendment to the Irish Constitution and the upcoming Government review of legislation on terminations.



Firstly, the Forum considered the applicability of rule 4.18 and whether this broadcast was related to the three other broadcasts referenced in the complaint. The Forum noted that while the broadcasts covered the broad topic of abortion, they each had a distinct editorial approach and angle to the topic. The Forum noted there was no mechanism used in the broadcasts to link them or to notify the audience the broadcasts were related, and, in addition, it is clear from the broadcaster's submission that no such link was intended. The Forum further noted that it is not the intention of rule 4.18 to allow links to be made between broadcasts retrospectively or solely on the basis they cover the same topic. Considering these factors, the Forum was satisfied the four broadcasts are not related broadcasts and rule 4.18 does not apply.

In considering the complainant's view the broadcast was not fair, objective or impartial because it did not include a pro-life perspective and the presenter did not sufficiently challenge the interviewee, the Forum noted the Code does not require that programmes feature all viewpoints on an issue to be fair, objective and impartial, however, presenters have a role in reflecting a range of views on a subject. In this regard, the Forum noted the presenter referenced the upcoming review of legislation on termination and questioned the interviewee on the right of doctors to conscientiously object to carrying out terminations. In relation to the 12-week limit on terminations, the presenter put it to the interviewee that voters in the referendum may have voted in favour of repeal based on this limit and may not be happy if this were to change without a public vote. The Forum was satisfied that the presenter's questioning of the interviewee met the relevant requirements of fairness, objectivity and impartiality in the Code.

The Forum decided the programme did not infringe the relevant provisions of the Broadcasting Act, 2009 or the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. Accordingly, the Forum rejected the complaint.





<b>Complaint Reference Number</b>	<b>C5538</b>
<b>Complainant</b>	Steve Tarrant
<b>Station</b>	RTÉ Radio 1
<b>Programme Name</b>	Today with Claire Byrne
<b>Broadcast Date</b>	10 <sup>th</sup> May 2021
<b>Broadcast Time</b>	10:00
<b>Programme Description</b>	News, current events and features programme
<b>Complaint Category</b>	Broadcasting Act 2009 – Section 48(1)(a) (Fairness, Objectivity and Impartiality in News and Current Affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – rules 4.1, 4.2, 4.3, 4.18, 4.19 and 4.22

#### Complaint Summary

The complaint concerns an item on the programme about the three-year Government review of the Health (Regulation of Termination of Pregnancy) Act 2018.

The complainant believes the item was not fair, objective or impartial because it included three pro-choice contributors and only one pro-life contributor, who did not have sufficient time to raise a range of pro-life issues with the legislation and its implementation. The complainant believes “the lion’s share” of the segment focused on views that the abortion law is extremely restrictive and difficult to access and gave listeners a false impression of how the law is operating and a false impression that few abortions are taking place.

The complainant requests this complaint be considered a complaint about an individual broadcast *and* a complaint about four related broadcasts, which include this programme and the following three programmes:

- *Sunday With Miriam*, RTÉ Radio 1, 16<sup>th</sup> May 2021
- *Drivetime*, RTÉ Radio 1, 18<sup>th</sup> May 2021
- *Morning Ireland*, RTÉ Radio 1, 25<sup>th</sup> May 2021

#### Broadcaster Response Summary

The broadcaster states that this programme and the three other programmes referenced in the complaint are four individual and separate programmes and they are not ‘related broadcasts’. The broadcaster references the following provision of the BAI Guidance Notes for the Code of Fairness, Objectivity and Impartiality in News and Current Affairs in support of this view:

*“However, the key principle that should guide the broadcaster’s decision in respect of linked broadcasts is audience knowledge. Broadcasters should use appropriate mechanisms to notify audiences whether the subject covered is as part of a series or whether alternative views will be covered in another programme. The BAI will not generally consider a broadcast*

*to be linked if such a link is made ‘retrospectively’ following receipt of a complaint.”*  
[Underlined is the broadcaster’s emphasis]

The broadcaster states the context for the reports on the above-mentioned programmes is the upcoming Government review of the Health (Regulation of Termination of Pregnancy) Act 2018, but notes there is no current debate before the public on whether or not abortion services should or should not be legally provided because that issue was decided by referendum in 2018.

The broadcaster states the report in this programme informed listeners of the upcoming review of the legislation and of various factual matters in relation to it. The broadcaster believes the report included a range of views on the topic and was a fair analysis of the upcoming review. The broadcaster notes that meeting the requirements of fairness does not necessitate the provision of equal time in a discussion or that all views are aired.

The broadcaster is of the view the broadcast was fully compliant with its statutory and regulatory obligations.

#### **Decision of Executive Complaints Forum**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum’s 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, 4.3, 4.18, 4.19 and 4.22. The Code requires current affairs to be fair to all interests concerned and to be presented in an objective and impartial manner, without any expression of the broadcaster’s own views. In the treatment of news and current affairs, broadcasters are required to comply with the Code’s principles of fairness; objectivity and impartiality; accuracy and responsiveness; and transparency and accountability. Broadcasters must also deal fairly with contributors to current affairs content. Views and facts must not be misrepresented or presented in such a way as to render them misleading. Current affairs presenters must ensure the audience has access to a wide variety of views on a subject and must reflect the views of those who cannot or choose not to, participate in content. The Code allows for two or more related broadcasts to be considered as a whole if the broadcasts are transmitted within a reasonable time period and such links are made clear to the audience.

The programme item is a report on the upcoming three-year review of the Health (Regulation of Termination of Pregnancy) Act 2018, which included recorded interviews with a professor specialising in constitutional law, a past President of the Irish College of General Practitioners, the chair of a group of pro-life politicians, a representative of the Abortion Rights Campaign, and a representative from a group supporting women who travel to the UK for abortions.

Firstly, the Forum considered the applicability of rule 4.18 and whether this broadcast was related to the three other broadcasts referenced in the complaint. The Forum noted that while the broadcasts covered the broad topic of abortion, they each had a distinct editorial approach and angle to the topic. The Forum noted there was no mechanism used in the broadcasts to link them or to notify the



audience the broadcasts were related, and, in addition, it is clear from the broadcaster's submission that no such link was intended. The Forum further noted that it is not the intention of rule 4.18 to allow links to be made between broadcasts retrospectively or solely on the basis they cover the same topic. Considering these factors, the Forum was satisfied the four broadcasts are not related broadcasts and rule 4.18 does not apply.

In considering the complainant's view the item was not fair, objective or impartial because it included three pro-choice contributors and only one pro-life contributor and did not give sufficient time to pro-life views, the Forum noted the item was not a debate or discussion about abortion, but rather a report on factual matters in relation to the upcoming review of legislation, including the process of that review, the operation of the legislation to date, and the likely issues to be considered in the review. The item included a range of perspectives on the topic covering the law, medical practitioners, politicians and civil society groups. The Forum noted the issues raised in relation to the operation of the legislation came from both the perspective of those who would prefer more restrictions on abortion availability and those who would prefer fewer restrictions. Given the topic of the report was a review of abortion law and not a debate about abortion, the Forum was satisfied the audience was provided with a sufficiently wide range of views to meet the requirements of fairness, objectivity and impartiality. In this regard, the Forum noted there is no requirement in the Code for programmes covering the topic of abortion to have a pro-life versus pro-choice editorial approach in order to achieve fairness, objectivity and impartiality.

In considering the complainant's view the item was misleading about how the law is operating and how many abortions were taking place, the Forum found no examples in the content of views or facts that were misrepresented or presented in such a way as to render them misleading.

The Forum concluded the broadcast did not infringe the relevant provisions of the Broadcasting Act, 2009 or the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. Accordingly, the Forum rejected the complaint.



<b>Complaint Reference Number</b>	<b>C5539</b>
<b>Complainant</b>	Brendan O'Regan
<b>Station</b>	Newstalk 106-108FM
<b>Programme Name</b>	Lunchtime Live
<b>Broadcast Date</b>	25 <sup>th</sup> June 2021
<b>Broadcast Time</b>	12:00
<b>Programme Description</b>	Phone In Chat Show
<b>Complaint Category</b>	Broadcasting Act 2009 – Section 48(1)(a) (Fairness, Objectivity and Impartiality in News and Current Affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – rules 4.1 and 4.22

#### Complaint Summary

The complaint concerns a segment on the programme on the subject of euthanasia/assisted dying.

The complainant believes there was a lack of fairness in the approach taken to the subject in the segment in terms of the range of views expressed and the role of the presenter.

The complainant contends the audience was not provided with a wide variety of views on the subject because the majority of contributors to the programme and the views expressed in texts had a “pro-euthanasia” perspective. The complainant states there were two high profile campaigners in favour of assisted dying legislation, one caller who was in favour but had concerns, and no callers who opposed the legislation. The complainant states that most of the texts read out were also in favour of the proposed legislation and believes that the one text against the legislation represented an extreme view which was used as a “straw man” by others texting into the programme.

The complainant believes the presenter’s language, at times, trivialised and distorted the views of those opposing the legislation. The complainant is also of the view that the counterpoints raised by the presenter were “perfunctory and not robust or adequate” and the presenter’s own views were apparent when saying that one text summarised the issue for him.

#### Broadcaster Response Summary

The broadcaster does not agree the segment was handled unfairly.

The broadcaster noted the segment included an interview with the T.D. who had introduced the Dying with Dignity Bill. The broadcaster is of the view this contributor was measured, did not force his view on listeners, acknowledged there are many opinions on the subject of euthanasia/assisted dying and said that it was ultimately about people having the choice.

The broadcaster believes the presenter challenged and probed the interviewee and used the role to provide balance and a counterpoint to the issue and presented the opposing view “at every



opportunity". The broadcaster noted that balance does not require the presence of guests with opposing views nor that guests have equal airtime.

The broadcaster is satisfied the segment achieved fairness through a range of factors, including the structure of the programme, the role of the presenter, the presenter's questioning and handling of the topic, and the contributions provided by text.

#### **Decision of Executive Complaints Forum**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's 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 4.22. The Code requires current affairs to be fair to all interests concerned and to be presented in an objective and impartial manner, without any expression of the broadcaster's own views. Current affairs presenters must ensure there are a wide variety of views on a subject, facilitate the expression of contributor's opinions and reflect the views of those who cannot, or choose, not to participate in the programme. In addition, presenters shall not express their own views such that a partisan position is advocated.

The topic of the broadcast was the legal concerns raised in relation to the Dying with Dignity Bill and the segment included an interview with the T.D. who introduced the Bill, an advocate for assisted dying and a selection of callers to the programme. In addition, the presenter read out texts on the topic from listeners.

The Forum noted the editorial approach of the broadcast was to set out the topic in the interview with the proposer of the Bill and then open the discussion out to callers to hear their views, which were generally based on personal experience. The Forum recognises this type of format can often involve strong opinions on a topic from callers to the programme. In considering the complainant's view the broadcast included numerous voices in favour of the legislation and none who opposed it, the Forum noted the Code does not require contributors from all viewpoints to be featured in a broadcast to meet the requirements of fairness, objectivity and impartiality and the presenter of the programme can ensure a wide variety of opinion on a topic. In this regard, the Forum was satisfied the presenter facilitated a range of views in the broadcast by playing 'devil's advocate' with the people he interviewed and reflecting the concerns people may have about assisted dying. The Forum was also of the view the presenter's language, while informal at times, would not have caused any misunderstanding of the matters covered.

The Forum also considered the complainant's view the presenter's own opinion on the topic was apparent when he said that one text summarised the issue for him. The Forum was of the view there was some ambiguity in the presenter's words, which could be interpreted as the text summarising the debate on the issue rather than summarising his views. Notwithstanding this ambiguity, the Forum was satisfied there was no evidence in the broadcast of the presenter expressing his own views such that a partisan position was advocated on the topic.



The Forum decided the programme did not infringe the relevant provisions of the Broadcasting Act, 2009 or the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. Accordingly, the Forum rejected the complaint.



<b>Complaint Reference Number</b>	<b>C5542</b>
<b>Complainant</b>	Steve Tarrant
<b>Station</b>	RTÉ Radio 1
<b>Programme Name</b>	Sunday with Miriam
<b>Broadcast Date</b>	16 <sup>th</sup> May 2021
<b>Broadcast Time</b>	10:00
<b>Programme Description</b>	News, current affairs, human interest and lifestyle programme
<b>Complaint Category</b>	Broadcasting Act 2009 – Section 48(1)(a) (Fairness, Objectivity and Impartiality in News and Current Affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – rules 4.1, 4.2, 4.3, 4.18, 4.19 and 4.22

#### Complaint Summary

The complaint concerns an interview with two pro-choice campaigners regarding the release of the upcoming documentary, “The 8<sup>th</sup>”, which coincided with an upcoming three-year Government review of the Health (Regulation of Termination of Pregnancy) Act 2018.

The complainant believes the context of the upcoming review of legislation means the interview discussed a topic that is the subject of current public debate.

The complainant believes the topics covered in the interview were dealt with in a one-sided way and amounted to a “celebration of repeal.” The complaint contends the presenter never challenged the interviewees on any of their claims and did not pose any “hard” questions and did not ensure the audience had access to perspectives that challenge the pro-choice narrative. The complainant contends the presenter made enthusiastic comments about the documentary and believes neutral listeners “would be left in no doubt” which “side” the presenter was on.

The complainant requests this be considered a complaint about an individual broadcast *and* a complaint about four related broadcasts, which include this programme and the following three programmes:

- *Today with Claire Byrne*, RTÉ Radio 1, 10<sup>th</sup> May 2021
- *Drivetime*, RTÉ Radio 1, 18<sup>th</sup> May 2021
- *Morning Ireland*, RTÉ Radio 1, 25<sup>th</sup> May 2021

#### Broadcaster Response Summary

The broadcaster states that this programme and the three other programmes referenced in the complaint are four individual and separate programmes and they are not ‘related broadcasts’. The broadcaster references the following provision of the BAI Guidance Notes for the Code of Fairness, Objectivity and Impartiality in News and Current Affairs in support of this view:

*“However, the key principle that should guide the broadcaster’s decision in respect of linked broadcasts is audience knowledge. Broadcasters should use appropriate mechanisms to notify audiences whether the subject covered is as part of a series or whether alternative views will be covered in another programme. The BAI will not generally consider a broadcast to be linked if such a link is made ‘retrospectively’ following receipt of a complaint.”*  
[Underlined is the broadcaster’s emphasis]

The broadcaster states the context for the interview was the planned release of a documentary film, “The 8<sup>th</sup>”, which deals with the campaign run by those who sought the repeal of the Eighth Amendment. The broadcaster is of the view the interview was not a discussion on the campaign issues *per se*, but about the personal motivations and experiences of the two interviews in the campaign.

The broadcaster points out that fairness does not always require that two sides of an argument are presented and also notes the presenter asked the interviewees about their views on those who had voted against repeal and those opposed to abortion.

The broadcaster is of the view the broadcast was fully compliant with its statutory and regulatory obligations.

#### **Decision of Executive Complaints Forum**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum’s 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, 4.3, 4.18, 4.19 and 4.22. The Code requires current affairs to be fair to all interests concerned and to be presented in an objective and impartial manner, without any expression of the broadcaster’s own views. In the treatment of news and current affairs, broadcasters are required to comply with the Code’s principles of fairness; objectivity and impartiality; accuracy and responsiveness; and transparency and accountability. Broadcasters must deal fairly with contributors to current affairs content and those referenced in the content. Views and facts must not be misrepresented or presented in such a way as to render them misleading. Current affairs presenters must ensure the audience has access to a wide variety of views on a subject and shall not express their own views such that a partisan position is advocated. The Code allows for two or more related broadcasts to be considered as a whole if the broadcasts are transmitted within a reasonable time period and such links are made clear to the audience.

The content complained of was an interview with two women who had been involved in the campaign to repeal the 8th Amendment to the Irish Constitution 2018. The context of the interview was the upcoming release of a documentary about this campaign, which featured these two women.

Firstly, the Forum considered the applicability of rule 4.18 and whether this broadcast was related to the three other broadcasts referenced in the complaint. The Forum noted that while the broadcasts



covered the broad topic of abortion, they each had a distinct editorial approach and angle to the topic. The Forum noted there was no mechanism used in the broadcasts to link them or to notify the audience the broadcasts were related, and, in addition, it is clear from the broadcaster's submission that no such link was intended. The Forum further noted that it is not the intention of rule 4.18 to allow links to be made between broadcasts retrospectively or solely on the basis they cover the same topic. Considering these factors, the Forum was satisfied the four broadcasts are not related broadcasts and rule 4.18 does not apply.

In considering the complainant's view the topic was dealt with in a one-sided way, the Forum noted the programme content was a discussion about the two women's personal experience of political activism and campaigning and it was not a panel discussion or debate about abortion generally. The subject was topical because a documentary about the political campaign to repeal the 8th Amendment was due to be released and these two women featured in that documentary. The editorial approach to the programme was not to re-run or re-open broader debates about abortion that were had during the referendum campaign, but rather to interview the women about their experiences. The Code recognises that a broadcaster has editorial freedom to choose the topics it wishes to cover, its editorial approach to covering those topics and to have contributors of its choice discuss those topics. The Forum was satisfied this was a legitimate editorial approach to the topic, that the selection of contributors reflected the chosen approach and that the programme offered an appropriate range of views on the topic.

In considering the complainant's view the contributors were not sufficiently challenged by the presenter, the Forum noted the Code does not require an adversarial approach to the treatment of current affairs or for contributors to be challenged on their personal experiences in order to ensure fairness, objectivity and impartiality in the content. In this regard, the Forum concluded the manner in which the contributors were interviewed was appropriate in the context of the subject matter of the programme.

In considering the complaint's view that the presenter was partisan, the Forum was of the view that expressing an opinion about a documentary is not the same as expressing an opinion about the topic covered in the documentary. The Forum found no evidence in the content of the presenter expressing an opinion about abortion such that a partisan position was advocated.

The Forum also found the complaint made no case as to any views or facts in the broadcast that were misrepresented or presented in such a way as to render them misleading.

The Forum decided the programme did not infringe the relevant provisions of the Broadcasting Act, 2009 or the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. Accordingly, the Forum rejected the complaint.



<b>Complaint Reference Number</b>	<b>C5543</b>
<b>Complainant</b>	Steve Tarrant
<b>Station</b>	RTÉ Radio 1
<b>Programme Name</b>	Drivetime
<b>Broadcast Date</b>	18 <sup>th</sup> May 2021
<b>Broadcast Time</b>	16:30
<b>Programme Description</b>	News and current affairs programme
<b>Complaint Category</b>	Broadcasting Act 2009 – Section 48(1)(a) (Fairness, Objectivity and Impartiality in News and Current Affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – rules 4.1, 4.2, 4.3, 4.18, 4.19 and 4.22

#### Complaint Summary

The complaint concerns a report on the programme about abortion provision in Sligo in the context of the upcoming three-year Government review of the Health (Regulation of Termination of Pregnancy) Act 2018.

The complainant contends the report did not meet the requirements of fairness, objectivity and impartiality and it actually helped deliver a highly partisan pro-choice message to the public. The complainant states that the report featured the personal story of one woman accessing abortion and interviewed two supporters of abortion provision and no one offering a pro-life perspective was interviewed. The complainant contends the reporter allowed serious charges made about pro-life protests to go unchallenged. The complainant believes the report did not provide adequate context and information for listeners to fairly evaluate how the abortion law is operating.

The complainant requests this be considered a complaint about an individual broadcast *and* a complaint about four related broadcasts, which include this programme and the following three programmes:

- *Today with Claire Byrne*, RTÉ Radio 1, 10<sup>th</sup> May 2021
- *Sunday With Miriam*, RTÉ Radio 1, 16<sup>th</sup> May 2021
- *Morning Ireland*, RTÉ Radio 1, 25<sup>th</sup> May 2021

#### Broadcaster Response Summary

The broadcaster states that this programme and the three other programmes referenced in the complaint are four individual and separate programmes and they are not 'related broadcasts'. The broadcaster references the following provision of the BAI Guidance Notes for the Code of Fairness, Objectivity and Impartiality in News and Current Affairs in support of this view:

*"However, the key principle that should guide the broadcaster's decision in respect of linked broadcasts is audience knowledge. Broadcasters should use appropriate mechanisms to*

*notify audiences whether the subject covered is as part of a series or whether alternative views will be covered in another programme. The BAI will not generally consider a broadcast to be linked if such a link is made 'retrospectively' following receipt of a complaint."*  
[Underlined is the broadcaster's emphasis]

The broadcaster states the context for the reports on the above-mentioned programmes is the upcoming Government review of the Health (Regulation of Termination of Pregnancy) Act 2018, but notes there is no current debate before the public on whether or not abortion services should or should not be legally provided because that issue was decided by referendum in 2018.

The broadcaster states the report was not a debate on whether or not abortion services should be provided but rather it was about how accessible those services are, with a specific focus on Sligo because no GPs in Sligo had signed up to provide abortion services that are available under law.

The broadcaster believes it is editorially appropriate to carry a report that looked at a county where abortion services are not accessible in the context of such services now being lawful and where the legislation allowing for such services is under review.

The broadcaster is of the view the broadcast was fully compliant with its statutory and regulatory obligations.

#### **Decision of Executive Complaints Forum**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's 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, 4.3, 4.18, 4.19 and 4.22. The Code requires current affairs to be fair to all interests concerned and to be presented in an objective and impartial manner, without any expression of the broadcaster's own views. In the treatment of news and current affairs, broadcasters are required to comply with the Code's principles of fairness; objectivity and impartiality; accuracy and responsiveness; and transparency and accountability. Broadcasters must deal fairly with contributors to current affairs content and those referenced in the content. Views and facts must not be misrepresented or presented in such a way as to render them misleading. Current affairs presenters must ensure the audience has access to a wide variety of views on a subject and must reflect the views of those who cannot or choose not to, participate in content. The Code allows for two or more related broadcasts to be considered as a whole if the broadcasts are transmitted within a reasonable time period and such links are made clear to the audience.

The broadcast complained of was a report concerning the Government review of the Health (Regulation of Termination of Pregnancy) Act 2018 and claims made by campaigners that the Government has failed to implement national health policy fully across the country, in particular, in Co. Sligo. The report included pre-recorded interviews with one woman in Sligo with a crisis

pregnancy, a General Practitioner in Roscommon providing abortion services, and a representative of Sligo Action for Reproductive Rights Access group.

Firstly, the Forum considered the applicability of rule 4.18 and whether this broadcast was related to the three other broadcasts referenced in the complaint. The Forum noted that while the broadcasts covered the broad topic of abortion, they each had a distinct editorial approach and angle to the topic. The Forum noted there was no mechanism used in the broadcasts to link them or to notify the audience the broadcasts were related, and, in addition, it is clear from the broadcaster's submission that no such link was intended. The Forum further noted that it is not the intention of rule 4.18 to allow links to be made between broadcasts retrospectively or solely on the basis they cover the same topic. Considering these factors, the Forum was satisfied the four broadcasts are not related broadcasts and rule 4.18 does not apply.

In considering the complainant's view the item was not fair, objective or impartial because it did not include a pro-life perspective, the Forum noted the item was not a debate or discussion about abortion, but rather a report on the availability of abortion services, as provided for under Health (Regulation of Termination of Pregnancy) Act 2018, with a focus on an area of the country where those services are not currently available. The item had a range of perspectives on the topic including a service user, a service provider and a campaigner for better service provision. Considering the topic of the report, the Forum was satisfied the audience was provided with a sufficiently wide range of views to meet the requirements of fairness, objectivity and impartiality. In this regard, the Forum noted there is no requirement in the Code for programmes covering the topic of abortion to have a pro-life versus pro-choice editorial approach in order to achieve fairness, objectivity and impartiality.

The Forum made no decision in relation to the complainants view that serious charges about pro-life protests went unchallenged because the complaint did not specify which charges ought to have been challenged by the reporter.

The Forum also considered the complainants view that listeners to the broadcast were not given information to fairly evaluate the operation of abortion law. The Forum noted the complaint did not specify any views or facts that were misrepresented in the report or presented in such a way as to render them misleading. The Forum concluded this aspect of the complaint appeared to be linked to the complainant's view the report ought to have included a pro-life view of abortion legislation, whereas the Forum was satisfied that no such view was necessary to achieve fairness, objectivity and impartiality because the topic of the report was the lack of availability of services provided for under law and not whether those services ought to be provided at all.

The Forum decided the programme did not infringe the relevant provisions of the Broadcasting Act, 2009 or the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. Accordingly, the Forum rejected the complaint.



<b>Complaint Reference Number</b>	<b>C5544</b>
<b>Complainant</b>	Steve Tarrant
<b>Station</b>	RTÉ Radio 1
<b>Programme Name</b>	Morning Ireland
<b>Broadcast Date</b>	25 <sup>th</sup> May 2021
<b>Broadcast Time</b>	07:00
<b>Programme Description</b>	News and current affairs programme
<b>Complaint Category</b>	Broadcasting Act 2009 – Section 48(1)(a) (Fairness, Objectivity and Impartiality in News and Current Affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – rules 4.1, 4.2, 4.3, 4.18, 4.19 and 4.22

#### Complaint Summary

The complaint concerns an interview with the Director of the National Women's Council of Ireland (NWCi) about an NWCi report about access to abortion services in Ireland. The report was issued in the context of an upcoming three-year Government review of the Health (Regulation of Termination of Pregnancy) Act 2018.

The complainant contends the broadcast did not meet the requirements of fairness, objectivity and impartiality in relation to the following:

- the interviewee was allowed to depict the abortion law as extremely restrictive;
- the broadcast did not provide context or counterbalance to the claims made by the interviewee in relation to the constraints of the abortion law; and,
- the presenter did not challenge points raised by the interviewee.

The complainant believes the broadcast required an interview with a pro-life spokesperson in order to be fair and impartial.

The complainant requests this be considered a complaint about an individual broadcast *and* a complaint about four related broadcasts, which include this programme and the following three programmes:

- *Today with Claire Byrne*, RTÉ Radio 1, 10<sup>th</sup> May 2021
- *Sunday With Miriam*, RTÉ Radio 1, 16<sup>th</sup> May 2021
- *Drivetime*, RTÉ Radio 1, 18<sup>th</sup> May 2021

#### Broadcaster Response Summary

The broadcaster states that this programme and the three other programmes referenced in the complaint are four individual and separate programmes and they are not 'related broadcasts'. The broadcaster references the following provision of the BAI Guidance Notes for the Code of Fairness, Objectivity and Impartiality in News and Current Affairs in support of this view:

*“However, the key principle that should guide the broadcaster’s decision in respect of linked broadcasts is audience knowledge. Broadcasters should use appropriate mechanisms to notify audiences whether the subject covered is as part of a series or whether alternative views will be covered in another programme. The BAI will not generally consider a broadcast to be linked if such a link is made ‘retrospectively’ following receipt of a complaint.”*  
[Underlined is the broadcaster’s emphasis]

The broadcaster states the context for the reports on the above-mentioned programmes is the upcoming Government review of the Health (Regulation of Termination of Pregnancy) Act 2018, but notes there is no current debate before the public on whether or not abortion services should or should not be legally provided because that issue was decided by referendum in 2018.

The broadcaster states this was a news interview with the Director of NWCI to discuss the findings of NWCI’s report in relation to abortion services in Ireland, which the broadcaster believes is an editorially appropriate item given the context. The broadcaster notes there is no statutory or regulatory requirement to have a “dissenting voice” in every item. The broadcaster also refutes the complainant’s view that the interviewee was not sufficiently challenged, noting the presenter put it to the interviewee that doctors were promised they would have a right to conscientious objection and that any change to the 12-week limit might concern those people who voted for abortion on this basis.

The broadcaster believes the broadcast was fully compliant with the broadcaster’s statutory and regulatory obligations.

#### **Decision of Executive Complaints Forum**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum’s 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, 4.3, 4.18, 4.19 and 4.22. The Code requires current affairs to be fair to all interests concerned and to be presented in an objective and impartial manner, without any expression of the broadcaster’s own views. In the treatment of news and current affairs, broadcasters are required to comply with the Code’s principles of fairness; objectivity and impartiality; accuracy and responsiveness; and transparency and accountability. Broadcasters must deal fairly with contributors to current affairs content and those referenced in the content. Views and facts must not be misrepresented or presented in such a way as to render them misleading. Current affairs presenters must ensure the audience has access to a wide variety of views on a subject and must reflect the views of those who cannot or choose not to, participate in content. The Code allows for two or more related broadcasts to be considered as a whole if the broadcasts are transmitted within a reasonable time period and such links are made clear to the audience.

The broadcast is an interview with a representative of the National Women’s Council of Ireland (NCWI) regarding the publication of a NWCI research report on the availability of abortion services.

The context of the report publication was the third anniversary of the vote to repeal the 8<sup>th</sup> Amendment to the Irish Constitution and the upcoming Government review of legislation on terminations.

Firstly, the Forum considered the applicability of rule 4.18 and whether this broadcast was related to the three other broadcasts referenced in the complaint. The Forum noted that while the broadcasts covered the broad topic of abortion, they each had a distinct editorial approach and angle to the topic. The Forum noted there was no mechanism used in the broadcasts to link them or to notify the audience the broadcasts were related, and, in addition, it is clear from the broadcaster's submission that no such link was intended. The Forum further noted that it is not the intention of rule 4.18 to allow links to be made between broadcasts retrospectively or solely on the basis they cover the same topic. Considering these factors, the Forum was satisfied the four broadcasts are not related broadcasts and rule 4.18 does not apply.

In considering the complainant's view the broadcast was not fair, objective or impartial because it did not include a pro-life contributor and the presenter did not provide the pro-life perspective or sufficiently challenge the interviewee, the Forum noted the Code does not require that programmes feature all viewpoints on an issue to be fair, objective and impartial, however, presenters have a role in reflecting a range of views on a subject. In this regard, the Forum noted the presenter referenced the upcoming review of legislation on termination and questioned the interviewee on the right of doctors to conscientiously object to carrying out terminations. In relation to the 12-week limit on terminations, the presenter put it to the interviewee that voters in the referendum may have voted in favour of repeal based on this limit and may not be happy if this were to change without a public vote. The Forum was satisfied that the presenter's questioning of the interviewee met the relevant requirements of fairness, objectivity and impartiality in the Code.

The Forum noted the complaint did not make a case that a contributor was dealt with unfairly or that there were views or facts misrepresented in the broadcast or presented in such a way as to render them misleading.

The Forum decided the programme did not infringe the relevant provisions of the Broadcasting Act, 2009 or the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. Accordingly, the Forum rejected the complaint.



<b>Complaint Reference Number</b>	<b>C5547</b>
<b>Complainant</b>	Alan Healy
<b>Station</b>	Newstalk 106 – 108fm
<b>Programme Name</b>	Moncrieff
<b>Broadcast Date</b>	20 <sup>th</sup> July 2021
<b>Broadcast Time</b>	14:00
<b>Programme Description</b>	Light entertainment programme, with a mix of views and interviews
<b>Complaint Category</b>	Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in news and current affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - rules 4.1, 4.2, 4.17, 4.19 and 4.22 Broadcasting Act 2009 - Section 48(1)(b) (harm and offence) BAI Code of Programme Standards - Principle 6

#### Complaint Summary

The complaint concerns comments made in a segment of the programme covering Covid-19 vaccine uptake, denial and hesitancy.

The complaint refers to an interview with an Associate Professor at the Royal College of Surgeons in which the interviewee stated, *"only non-vaccinated people will die of Covid-19, vaccinated people will not"*. The complainant contends that this statement is misleading and was not challenged in the programme and the presenter endorsed it as fact by his acclamation to being fully vaccinated. The complainant also believes the presenter's comment, *"as a double-vaccinated man, this is music to my ears"* was an expression of the broadcaster's own views and represented a failure by the presenter to remain independent on the topic.

The complainant believes the broadcast content was misleading and was not fair to all interests concerned and was not presented in an objective and impartial manner.

#### Broadcaster Response Summary

The broadcaster does not dispute the statement made by the interviewee but notes the presenter questioned him on it and the interviewee went on to qualify that the number of deaths from Covid-19 worldwide in the vaccinated population is very low. The broadcaster notes that this is supported by worldwide figures and recent data from Ireland's National Public Health Emergency Team (NPHET).

On this basis, the broadcaster believes the interview as a whole was balanced and accurate and rejects the complaint.



#### Decision of Executive Complaints Forum

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's 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, 4.17, 4.19 and 4.22. This Code requires current affairs to be fair to all interests concerned and to be presented in an objective and impartial manner, without any expression of the broadcaster's own views. In the treatment of news and current affairs, broadcasters are required to comply with the Code's principles of fairness; objectivity and impartiality; accuracy and responsiveness; and transparency and accountability. News and current affairs must be presented with due accuracy and views and facts must not be misrepresented or presented in such a way as to render them misleading. Current affairs presenters must not express their own views such that a partisan position is advocated.

The Forum noted the complaint was also submitted under Principle 6 of the Code of Programme Standards, which provides that the public interest can be adversely affected by the omission of material and/or the inadequate representation of information or viewpoints.

The complaint refers to a comment made by the interviewee when discussing the impact of the use of vaccines to combat Covid-19, that, *"only non-vaccinated people will die of Covid-19, vaccinated people will not"*. The Forum noted the interviewee later commented that, *"pretty much with all the vaccines, even with the Delta variant and concerns about how well the vaccines work, people may still get mild sickness or even end up more seriously ill, but the death rate is almost zero if you're vaccinated."* Considering the interview in whole and in context, the Forum was satisfied that listeners would not have been misled on this specific issue and that the public interest was not adversely affected by the broadcast. The Forum also noted the presenter commented that he was vaccinated and expressed relief, from a personal perspective, about the protections vaccinated people have from Covid-19. The Forum did not believe the presenters remarks in this regard amounted to advocacy of a partisan position.

The Forum decided the programme did not infringe the relevant provisions of the Broadcasting Act, 2009 or the Codes. Accordingly, the Forum rejected the complaint.