



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

**Broadcasting Authority of Ireland
Broadcasting Complaints Decisions**

October 2018



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BAI Complaints Handling Process

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

In line with the complaint process, the viewer or listener should direct their complaint to the broadcaster in the first instance and in the manner detailed in the broadcaster's Code of Practice for Handling Complaints, a document which each broadcaster has available on its website. If a viewer or listener is not satisfied with the response from the broadcaster or if the broadcaster does not respond within the timeframe provided for in their Code of Practice (usually 21 days), then the viewer or listener can refer the complaint to the BAI for consideration.

In assessing complaint referrals, the BAI will have regard to the relevant codes and rules, the written material submitted by the relevant parties, together with the broadcast material. Complaints are assessed at Executive level by the Executive Complaints Forum and/or by the Compliance Committee of the Authority. Further information may be found on the complaints handling section of the BAI's website: www.bai.ie.

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

In total, fifteen complaints were considered by the Compliance Committee of the BAI; thirteen complaints were rejected and two were upheld in part. In addition, five complaints were considered and rejected by the Executive Complaints Forum. The decisions of the Compliance Committee were reached at its meetings held on 6th June, 18th July and 5th September 2018, while the decisions of the Executive Complaints Forum were reached at meetings held on 14th and 28th May and the 11th June 2018.



Upheld In part by Compliance Committee

Complaint made by: Mr. Michael McNamara

Ref. No. 19/18

Station:

RTÉ One

Programme:

Six-One News

Date:

23rd January 2018

1. Programme

The complaint refers to Six-One News, a news programme broadcast each evening at 6.01pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1, 4.2, 4.17 and 4.19.

3. Complaint Summary

The complaint refers to a report of court proceedings at Ennis District Court in which the complainant appeared as the defendant. It is the view of the complainant that the report presented information about the court proceedings, including details of the arrest and subsequent charges, but failed to mention details from the defence case or the fact that the defendant was acquitted of some charges. The complainant further states that some of the testimony by a Garda who deployed pepper spray after the defendant allegedly attempted to escape custody was uncorroborated.

The complainant is of the view that the manner in which the case was reported, with the inclusion of only some facts which were known at the time, meant that the programme was not presented with due accuracy.

The complainant states that the court proceedings had concluded prior to the broadcast but did not include all available facts. The exclusion of the acquittal, in particular, rendered the report misleading and unfair. The complaint believes that the report was not accurate, objective or impartial.

4. Broadcaster Response

The broadcaster states that the report was based on court copy which was supplied by a freelance journalist, which is a common method for obtaining news copy. The copy, which was received by RTÉ at 1.51pm, detailed the morning's court proceedings. The Six-One News, which is the subject of the complaint, was based on this copy. The broadcaster states that further copy was received at 6.23pm, too late for the report to be updated before being aired. However, full details were made available on the RTÉ website.

The broadcaster maintains that the report was accurate and fair having regard to the circumstances and facts known at the time of preparing and broadcasting the content. Further, the broadcaster notes that the complainant objects to some facts being excluded from the report but states that cannot cover every detail pertaining to court proceedings. The broadcaster is of the view that the contents of the Six-



One News and the later updated online report accurately and impartially reported on proceedings of the court and that there was no misrepresentation of the facts.

5. Decision of the Compliance Committee Upheld-in-part (Majority)

The Compliance Committee noted that the complaint was made under Sections 4.1, 4.2, 4.17 and 4.19 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. Having reviewed the complaint material and having had regard to the relevant legislation and Code, the Committee found that the broadcaster did not comply with the requirements set out in Section 4.2 of the Code and, as such, decided to uphold the complaint under this section. The reasons for this decision are set out below.

In making this determination, the Committee was mindful that the information contained in the short news broadcast was factually accurate at the time of preparation. However, the Committee noted that the report was prepared several hours before the broadcast and did not feel that sufficient steps were taken by the broadcaster to ensure that the accuracy of the report was adequate and appropriate with regard to the circumstances at the time of the broadcast. The Committee was mindful that the update on the story was not received by the broadcaster until 6 minutes prior to broadcast, however, the Code states that “accuracy is a fundamental principle associated with the broadcast of news and current affairs content and should always take priority over the speed with which content can be delivered”. The Committee noted that the broadcaster did not include the updated information, nor did the report include reference to the fact that the trial was ongoing at the time of preparation. It was the view of the Committee that the broadcaster did not take sufficient steps to ensure that it complied with the principle of accuracy which underpins the Code.

The Committee noted that the other main aspect of the complaint was the complainant’s belief that the omission of aspects of the defence case led to an unfair and misleading broadcast. The Committee noted that there is no requirement for fairness in news. Further, the Committee noted that there is no requirement for the broadcaster to cover every aspect of a story and, in this instance, the Committee did not agree that report was misleading.

In view of the above, the Committee found that the programme infringed some requirements of the broadcasting legislation and the Code. As such, the Committee decided to uphold the complaint in part.



Complaint made by: Mr. Ciarán Bouse

Ref. No. 31/18

Station:
RTÉ 2FM

Programme:
The Eoghan McDermott Show

Date:
8th March 2018

1. Programme

The complaint concerns The Eoghan McDermott Show, broadcast each weekday afternoon from 4pm – 7pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards - Principle 5.

3. Complaint Summary

The complaint concerns comments made by the presenter, Eoghan McDermott, during an interview with the Director General of RTÉ, Dee Forbes. The presenter asked her whom she would like to kick in the testicles. The complainant found the comment offensive and discriminatory towards men and was of the view that it promoted violence against men. The complainant states that the comment was insensitive and was unjustified. The complainant further states that Dee Forbes, in her role of Director General, should have corrected the comment.

4. Broadcaster Response

The broadcaster states the complaint refers to a question posed during a regular feature on the Eoghan McDermott Show, in which high profile guests are asked to respond to a range of questions. The specific question that was the subject of the complaint has been posed to both male and female participants in the past and the broadcaster states that it is intended to entertain. The broadcaster acknowledged that the phraseology used did not meet the complainant's standards. The broadcaster recognises the importance of its role and its duties to ensure persons and groups are treated with respect and dignity irrespective of gender. The broadcaster states that it never intended to cause offence but acknowledged that offence has been caused in this instance. The broadcaster stated that it would take the feedback into account for future reference.

1. Decision of the Compliance Committee Uphold-in-part (Majority)

The Compliance Committee noted that the complaint was made under Principle 5 of the Code of Programme Standards. Having reviewed the complaint material, and having had regard to the relevant legislation, the Committee found that the broadcaster did not comply with one element of the requirements set out here and, as such, the complaint was upheld in part. The reasons for this decision are set out below.

The Committee noted that the complainant argued that the comment which is the subject of the complaint, is offensive towards men. The Committee noted that the Code acknowledges that programming material may cause offence to some audience members and as such the test for compliance with the Code is undue offence. In this instance, given the context of the programme and audience expectation, the Committee did not feel that the comment could be deemed unduly offensive and therefore did not uphold this element of the complaint.



The Committee noted that the complainant believed that the comment was also discriminatory towards men, however, the Committee did not agree that the programme material could reasonably be considered as supporting or condoning discrimination against any person or group in society.

The Compliance Committee considered the complainant's assertion that the comment in question condoned violence towards men. While the Committee noted that this is a recurring segment in this programme, which is clearly intended to be light hearted, it determined that the question and the specific wording used, i.e. the reference to kicking a man in the testicles, was not justified. As a result, the Committee decided to uphold this element of the complaint.



Rejected by Compliance Committee

Complaint made by: Mr. Éamonn Geoghegan

Ref. No. 15/18

Station:

RTÉ One

Sponsorship:

McDonald's Sponsorship of The Big Big Movie

Broadcast:

The Santa Clause

Date:

2nd December 2017

1. Programme

The complaint refers to the sponsorship by McDonalds of The Big Big Movie (The Santa Clause) broadcast at 6.35pm on Saturday evening.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(d)(commercial communications); the BAI Children's Commercial Communications Code: Section 11 - Rules 1, 2 & 3 (Diet and Nutrition), 4, 5, 6 & 7 (HFSS food products and/or services), 8 & 9 (Fast Food and Confectionary) and Section 14 (Children's Advertising, Children's Sponsorship and Children's Product Placement) - Rules 1, 2, 3, 4, 5 & 6.

3. Complaint Summary

The complaint refers to the sponsorship sting which occurs before and during The Big Big Movie on Saturday evening.

- The Santa Clause – 2nd December 2017

It is the view of the complainant that the broadcasts are Children's Programmes and that the sponsorship announcements are Children's Commercial Communications as defined in the Code. The complainant is of the view that each film falls into the genre of family/children's. The complainant also states that *Santa Clause* and *Cinderella* are well-known children's characters who have played major roles in children's stories. The complainant contends that each of these broadcasts are among the top 20 most viewed children's programming for 2017. Further, he states that while the audience profile may not meet the criteria of 50% or more under 18 years of age, the number of children watching these broadcasts is significant when one considers the absolute number of viewers.

The complainant is of the view that the product/s included in the commercial communications are of particular interest to children and argues that the commercial communications invite children to view McDonalds as a normal part of everyday family meals. According to the complainant, this is achieved by depicting various family members enjoying McDonalds together.



4. Broadcaster Response

The broadcaster maintains that the Code does not apply to these broadcasts as they are not Children's programmes as defined in the Code. The broadcaster also argues that the relevant Commercial Communications are not Children's Commercial Communications as defined in the Code due to the fact that they are not carried in Children's Programme and are not promoting products or services that are of particular interest in children. The broadcaster provides rationale in relation to this position as follows:-

- **Audience profile:** the broadcaster states that the audience profile for each broadcast falls far below the required 50% of viewers under 18 years as required by the Code. The broadcaster asserts that the programmes are scheduled and promoted as "family entertainment" and the audience profile reflects this fact.
- **Commonly referred to as children's programming:** the broadcaster states that "The Big Big Movie" is referred to as "family viewing" not children's viewing. RTÉ has a separate category of programming that it defines as Children's Programming. It further states that "The Big Big Movie" does not fall under the children's programming department, nor is it publicised or promoted as a children's programme. The broadcaster states that RTÉ One is not a children's channel and does not aim its schedule at an under 18 audience.
- **Promote products, services, or activities that are deemed to be of particular interest to children:** the broadcaster is of the view that the product/s included in the relevant commercial communications are aimed at families and not exclusively towards children. The creative approach appeals to families and does not target children, and it is RTÉ's view that this is evident through the inclusion of three generations of a family in the stings, along with the script and presentation.

5. Advertiser Response to the BAI

The BAI sought a response from the advertiser in relation to these complaints but none was submitted.

6. Decision of the Compliance Committee Rejected (Majority)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Compliance Committee decided that the Children's Commercial Communications Code ("the Code") does not apply to the broadcast or the relevant commercial communications based on the definitions in the Code, the related Guidance provided by the BAI and the case presented by the complainant. In reaching this decision the Committee noted the following:-

The Committee noted that the Code states that "Children's Programmes are programmes that are commonly referred to as such and/or have an audience profile of which over 50% are under 18 years of age". Further, the Guidance to the Code states that "Audience profiling will be the primary means of implementing the provisions of the Code". In this instance, the Committee noted that the audience profile for the programme did not meet the 50% threshold set down in the Code.

The Committee noted that the broadcast in question would be of interest to children, however, the Committee was mindful of contextual factors such as time of broadcast, type of programme, audience expectation and channel type. The Committee noted that RTÉ One is not a children's channel and that the time of broadcast would not be commonly identified as a slot for children's programming. When



considering the broadcast in the context of these factors, the Committee did not find sufficient evidence to support the claim that the broadcast in question could be deemed to be commonly referred to as children's programming.

The Code defines Children's Commercial Communications as "commercial communications that promote products, services, or activities that are deemed to be of particular interest to children and/or broadcast during and between children's programmes". The Guidance provided with the Code states that "in determining whether a product/service is of particular interest to children, broadcasters are advised to consider, on a case-by case basis whether:-

- The product/service being promoted is one that is of exclusive interest to children i.e. something that only under-18 years olds would be interested in e.g. a Fisher Price Toy, Barbie Dolls.
- The creative approach is such that the promotion is clearly intended to target children even in instances where the item promoted is not of exclusive interest to children."

The Committee noted that the relevant commercial communications focused on family and depicted a range of family members of various ages. The commercial communications also featured a range of products, which would be of interest to an entire family group. The Committee did not believe that undue prominence was given to any one product and, as such, the product being promoted was not of exclusive interest to children. The Committee did not find that the creative approach could be considered as clearly intended to target children.

As the Code did not apply, the Committee rejected the complaint.



Complaint made by: Mr. Éamonn Geoghegan

Ref. No. 16/18

Station:
RTÉ One

Sponsorship:
McDonald's Sponsorship of The Big Big Movie

Broadcast:
The Santa Clause 2

Date:
9th December 2017

1. Programme

The complaint refers to the sponsorship by McDonalds of The Big Big Movie (The Santa Clause 2) broadcast at 6.35pm on Saturday evening.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(d)(commercial communications); the BAI Children's Commercial Communications Code: Section 11 - Rules 1, 2 & 3 (Diet and Nutrition), 4, 5, 6 & 7 (HFSS food products and/or services), 8 & 9 (Fast Food and Confectionary) and Section 14 (Children's Advertising, Children's Sponsorship and Children's Product Placement) - Rules 1, 2, 3, 4, 5 & 6.

3. Complaint Summary

The complaint refers to the sponsorship sting which occurs before and during The Big Big Movie on Saturday evening.

- The Santa Clause 2 – 9th December 2017

It is the view of the complainant that the broadcasts are Children's Programmes and that the sponsorship announcements are Children's Commercial Communications as defined in the Code. The complainant is of the view that each film falls into the genre of family/children's. The complainant also states that *Santa Clause* and *Cinderella* are well-known children's characters who have played major roles in children's stories. The complainant contends that each of these broadcasts are among the top 20 most viewed children's programming for 2017. Further, he states that while the audience profile may not meet the criteria of 50% or more under 18 years of age, the number of children watching these broadcasts is significant when one considers the absolute number of viewers.

The complainant is of the view that the product/s included in the commercial communications are of particular interest to children and argues that the commercial communications invite children to view McDonalds as a normal part of everyday family meals. According to the complainant, this is achieved by depicting various family members enjoying McDonalds together.

4. Broadcaster Response

The broadcaster maintains that the Code does not apply to these broadcasts as they are not Children's programmes as defined in the Code. The broadcaster also argues that the relevant Commercial Communications are not Children's Commercial Communications as defined in the Code due to the fact that they are not carried in Children's Programme and are not promoting products or services that are of particular interest in children. The broadcaster provides rationale in relation to this position as follows:-



- **Audience profile:** the broadcaster states that the audience profile for each broadcast falls far below the required 50% of viewers under 18 years as required by the Code. The broadcaster asserts that the programmes are scheduled and promoted as “family entertainment” and the audience profile reflects this fact.
- **Commonly referred to as children’s programming:** the broadcaster states that “The Big Big Movie” is referred to as “family viewing” not children’s viewing. RTÉ has a separate category of programming that it defines as Children’s Programming. It further states that “The Big Big Movie” does not fall under the children’s programming department, nor is it publicised or promoted as a children’s programme. The broadcaster states that RTÉ One is not a children’s channel and does not aim its schedule at an under 18 audience.
- **Promote products, services, or activities that are deemed to be of particular interest to children:** the broadcaster is of the view that the product/s included in the relevant commercial communications are aimed at families and not exclusively towards children. The creative approach appeals to families and does not target children, and it is RTÉ’s view that this is evident through the inclusion of three generations of a family in the stings, along with the script and presentation.

5. Advertiser Response to the BAI

The BAI sought a response from the advertiser in relation to these complaints but none was submitted.

6. Decision of the Compliance Committee Rejected (Majority)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Compliance Committee decided that the Children’s Commercial Communications Code (“the Code”) does not apply to the broadcast or the relevant commercial communications based on the definitions in the Code, the related Guidance provided by the BAI and the case presented by the complainant. In reaching this decision the Committee noted the following-

The Committee noted that the Code states that “Children’s Programmes are programmes that are commonly referred to as such and/or have an audience profile of which over 50% are under 18 years of age”. Further, the Guidance to the Code states that “Audience profiling will be the primary means of implementing the provisions of the Code”. In this instance, the Committee noted that the audience profile for the programme did not meet the 50% threshold set down in the Code.

The Committee noted that the broadcast in question would be of interest to children, however, the Committee was mindful of contextual factors such as time of broadcast, type of programme, audience expectation and channel type. The Committee noted that RTÉ One is not a children’s channel and that the time of broadcast would not be commonly identified as a slot for children’s programming. When considering the broadcast in the context of these factors, the Committee did not find sufficient evidence to support the claim that the broadcast in question could be deemed to be commonly referred to as children’s programming.

The Code defines Children’s Commercial Communications as “commercial communications that promote products, services, or activities that are deemed to be of particular interest to children and/or broadcast during and between children’s programmes”. The Guidance provided with the Code states that “in determining whether a product/service is of particular interest to children, broadcasters are advised to consider, on a case-by case basis whether:-



- The product/service being promoted is one that is of exclusive interest to children i.e. something that only under-18 years olds would be interested in e.g. a Fisher Price Toy, Barbie Dolls.
- The creative approach is such that the promotion is clearly intended to target children even in instances where the item promoted is not of exclusive interest to children.”

The Committee noted that the relevant commercial communications focused on family and depicted a range of family members of various ages. The commercial communications also featured a range of products, which would be of interest to an entire family group. The Committee did not believe that undue prominence was given to any one product and, as such, the product being promoted was not of exclusive interest to children. The Committee did not find that the creative approach could be considered as clearly intended to target children.

As the Code did not apply, the Committee rejected the complaint.



Complaint made by: Mr. Éamonn Geoghegan

Ref No. 17/18

Station:
RTÉ One

Sponsorship:
McDonald's Sponsorship of The Big Big Movie

Broadcast:
The Santa Clause 3

Date:
16th December 2017

1. Programme

The complaint refers to the sponsorship by McDonalds of The Big Big Movie (The Santa Clause 3) broadcast at 6.35pm on Saturday evening.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(d)(commercial communications); the BAI Children's Commercial Communications Code: Section 11 - Rules 1, 2 & 3 (Diet and Nutrition), 4, 5, 6 & 7 (HFSS food products and/or services), 8 & 9 (Fast Food and Confectionary) and Section 14 (Children's Advertising, Children's Sponsorship and Children's Product Placement) - Rules 1, 2, 3, 4, 5 & 6.

3. Complaint Summary

The complaint refers to the sponsorship sting which occurs before and during The Big Big Movie on Saturday evening.

- The Santa Clause 3 – 16th December 2017

It is the view of the complainant that the broadcasts are Children's Programmes and that the sponsorship announcements are Children's Commercial Communications as defined in the Code. The complainant is of the view that each film falls into the genre of family/children's. The complainant also states that *Santa Clause* and *Cinderella* are well-known children's characters who have played major roles in children's stories. The complainant contends that each of these broadcasts are among the top 20 most viewed children's programming for 2017. Further, he states that while the audience profile may not meet the criteria of 50% or more under 18 years of age, the number of children watching these broadcasts is significant when one considers the absolute number of viewers.

The complainant is of the view that the product/s included in the commercial communications are of particular interest to children and argues that the commercial communications invite children to view McDonalds as a normal part of everyday family meals. According to the complainant, this is achieved by depicting various family members enjoying McDonalds together.

4. Broadcaster Response

The broadcaster maintains that the Code does not apply to these broadcasts as they are not Children's programmes as defined in the Code. The broadcaster also argues that the relevant Commercial Communications are not Children's Commercial Communications as defined in the Code due to the fact that they are not carried in Children's Programme and are not promoting products or services that are of particular interest in children. The broadcaster provides rationale in relation to this position as follows:-



- **Audience profile:** the broadcaster states that the audience profile for each broadcast falls far below the required 50% of viewers under 18 years as required by the Code. The broadcaster asserts that the programmes are scheduled and promoted as “family entertainment” and the audience profile reflects this fact.
- **Commonly referred to as children’s programming:** the broadcaster states that “The Big Big Movie” is referred to as “family viewing” not children’s viewing. RTÉ has a separate category of programming that it defines as Children’s Programming. It further states that “The Big Big Movie” does not fall under the children’s programming department, nor is it publicised or promoted as a children’s programme. The broadcaster states that RTÉ One is not a children’s channel and does not aim its schedule at an under 18 audience.
- **Promote products, services, or activities that are deemed to be of particular interest to children:** the broadcaster is of the view that the product/s included in the relevant commercial communications are aimed at families and not exclusively towards children. The creative approach appeals to families and does not target children, and it is RTÉ’s view that this is evident through the inclusion of three generations of a family in the stings, along with the script and presentation.

5. Advertiser Response to the BAI

The BAI sought a response from the advertiser in relation to these complaints but none was submitted.

6. Decision of the Compliance Committee Rejected (Majority)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Compliance Committee decided that the Children’s Commercial Communications Code (“the Code”) does not apply to the broadcast or the relevant commercial communications based on the definitions in the Code, the related Guidance provided by the BAI and the case presented by the complainant. In reaching this decision the Committee noted the following:-

The Committee noted that the Code states that “Children’s Programmes are programmes that are commonly referred to as such and/or have an audience profile of which over 50% are under 18 years of age”. Further, the Guidance to the Code states that “Audience profiling will be the primary means of implementing the provisions of the Code”. In this instance, the Committee noted that the audience profile for the programme did not meet the 50% threshold set down in the Code.

The Committee noted that the broadcast in question would be of interest to children, however, the Committee was mindful of contextual factors such as time of broadcast, type of programme, audience expectation and channel type. The Committee noted that RTÉ One is not a children’s channel and that the time of broadcast would not be commonly identified as a slot for children’s programming. When considering the broadcast in the context of these factors, the Committee did not find sufficient evidence to support the claim that the broadcast in question could be deemed to be commonly referred to as children’s programming.

The Code defines Children’s Commercial Communications as “commercial communications that promote products, services, or activities that are deemed to be of particular interest to children and/or broadcast during and between children’s programmes”. The Guidance provided with the Code states that “in determining whether a product/service is of particular interest to children, broadcasters are advised to consider, on a case-by case basis whether:-



- The product/service being promoted is one that is of exclusive interest to children i.e. something that only under-18 years olds would be interested in e.g. a Fisher Price Toy, Barbie Dolls.
- The creative approach is such that the promotion is clearly intended to target children even in instances where the item promoted is not of exclusive interest to children.”

The Committee noted that the relevant commercial communications focused on family and depicted a range of family members of various ages. The commercial communications also featured a range of products, which would be of interest to an entire family group. The Committee did not believe that undue prominence was given to any one product and, as such, the product being promoted was not of exclusive interest to children. The Committee did not find that the creative approach could be considered as clearly intended to target children.

As the Code did not apply, the Committee rejected the complaint.



Complaint made by: Mr. Éamonn Geoghegan

Ref. No. 18/18

Station:
RTÉ One

Sponsorship:
McDonald's Sponsorship of The Big Big Movie

Broadcast:
Cinderella

Date:
23rd December 2017

1. Programme

The complaint refers to the sponsorship by McDonalds of The Big Big Movie (Cinderella) broadcast at 6.35pm on Saturday evening.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(d)(commercial communications); the BAI Children's Commercial Communications Code: Section 11 - Rules 1, 2 & 3 (Diet and Nutrition), 4, 5, 6 & 7 (HFSS food products and/or services), 8 & 9 (Fast Food and Confectionary) and Section 14 (Children's Advertising, Children's Sponsorship and Children's Product Placement) - Rules 1, 2, 3, 4, 5 & 6.

3. Complaint Summary

The complaint refers to the sponsorship sting which occurs before and during The Big Big Movie on Saturday evening.

- Cinderella – 23rd December 2017

It is the view of the complainant that the broadcasts are Children's Programmes and that the sponsorship announcements are Children's Commercial Communications as defined in the Code. The complainant is of the view that each film falls into the genre of family/children's. The complainant also states that *Santa Clause* and *Cinderella* are well-known children's characters who have played major roles in children's stories. The complainant contends that each of these broadcasts are among the top 20 most viewed children's programming for 2017. Further, he states that while the audience profile may not meet the criteria of 50% or more under 18 years of age, the number of children watching these broadcasts is significant when one considers the absolute number of viewers.

The complainant is of the view that the product/s included in the commercial communications are of particular interest to children and argues that the commercial communications invite children to view McDonalds as a normal part of everyday family meals. According to the complainant, this is achieved by depicting various family members enjoying McDonalds together.

4. Broadcaster Response

The broadcaster maintains that the Code does not apply to these broadcasts as they are not Children's programmes as defined in the Code. The broadcaster also argues that the relevant Commercial Communications are not Children's Commercial Communications as defined in the Code due to the fact that they are not carried in Children's Programme and are not promoting products or services that are of particular interest in children. The broadcaster provides rationale in relation to this position as follows:-



- **Audience profile:** the broadcaster states that the audience profile for each broadcast falls far below the required 50% of viewers under 18 years as required by the Code. The broadcaster asserts that the programmes are scheduled and promoted as “family entertainment” and the audience profile reflects this fact.
- **Commonly referred to as children’s programming:** the broadcaster states that “The Big Big Movie” is referred to as “family viewing” not children’s viewing. RTÉ has a separate category of programming that it defines as Children’s Programming. It further states that “The Big Big Movie” does not fall under the children’s programming department, nor is it publicised or promoted as a children’s programme. The broadcaster states that RTÉ One is not a children’s channel and does not aim its schedule at an under 18 audience.
- **Promote products, services, or activities that are deemed to be of particular interest to children:** the broadcaster is of the view that the product/s included in the relevant commercial communications are aimed at families and not exclusively towards children. The creative approach appeals to families and does not target children, and it is RTÉ’s view that this is evident through the inclusion of three generations of a family in the stings, along with the script and presentation.

5. Advertiser Response to the BAI

The BAI sought a response from the advertiser in relation to these complaints but none was submitted.

6. Decision of the Compliance Committee Rejected (Majority)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Compliance Committee decided that the Children’s Commercial Communications Code (“the Code”) does not apply to the broadcast or the relevant commercial communications based on the definitions in the Code, the related Guidance provided by the BAI and the case presented by the complainant. In reaching this decision the Committee noted the following:-

The Committee noted that the Code states that “Children’s Programmes are programmes that are commonly referred to as such and/or have an audience profile of which over 50% are under 18 years of age”. Further, the Guidance to the Code states that “Audience profiling will be the primary means of implementing the provisions of the Code”. In this instance, the Committee noted that the audience profile for the programme did not meet the 50% threshold set down in the Code.

The Committee noted that the broadcast in question would be of interest to children, however, the Committee was mindful of contextual factors such as time of broadcast, type of programme, audience expectation and channel type. The Committee noted that RTÉ One is not a children’s channel and that the time of broadcast would not be commonly identified as a slot for children’s programming. When considering the broadcast in the context of these factors, the Committee did not find sufficient evidence to support the claim that the broadcast in question could be deemed to be commonly referred to as children’s programming.

The Code defines Children’s Commercial Communications as “commercial communications that promote products, services, or activities that are deemed to be of particular interest to children and/or broadcast during and between children’s programmes”. The Guidance provided with the Code states that “in determining whether a product/service is of particular interest to children, broadcasters are advised to consider, on a case-by case basis whether:-



- The product/service being promoted is one that is of exclusive interest to children i.e. something that only under-18 years olds would be interested in e.g. a Fisher Price Toy, Barbie Dolls.
- The creative approach is such that the promotion is clearly intended to target children even in instances where the item promoted is not of exclusive interest to children.”

The Committee noted that the relevant commercial communications focused on family and depicted a range of family members of various ages. The commercial communications also featured a range of products, which would be of interest to an entire family group. The Committee did not believe that undue prominence was given to any one product and, as such, the product being promoted was not of exclusive interest to children. The Committee did not find that the creative approach could be considered as clearly intended to target children.

As the Code did not apply, the Committee rejected the complaint.



Complaint made by: Mr. Mike Hogan

Ref. No. 24/18

Station:

RTÉ One

Programme:

Prime Time

Date:

23rd January 2018

1. Programme

The complaint concerns Prime Time, a current affairs programme broadcast twice weekly at 21.35.

2. Complaint Category

Broadcasting Act 2009 – Section 48(1)(b)(harm and offence); the BAI Code of Programme Standards - Principle 3 (Protection from Harm) and Principle 6 (Protection of the Public Interest).

3. Complaint Summary

The complaint concerns a segment of the programme called The Great Transport Race during which Prime Time reporters raced across Dublin during peak commuter time to establish which mode of transport was the fastest. The complainant maintains that the lead presenter, Richard Downes, whose mode of transport was a car, was shown at least four times during the broadcast, holding a mobile phone while driving. The complainant believes this infringes Principles 3 and 6 as cited above and undermines the authority of the State.

4. Broadcaster Response

The broadcaster maintains that the presenter used the hands-free facility when calling the other reporters while driving. He used the phone as a stopwatch and held it up to the camera to show the time that had elapsed. The broadcaster does not believe that the presenter behaved irresponsible or that the content undermined the authority of the State.

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

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

The Committee noted that broadcasters should take due care when broadcasting material that encourages people to imitate acts which are damaging to their own and others health and safety, and protect the public interest by not undermining the authority of the State.

The Committee had regard to the type of programme and noted this deals with a range of current affairs issues. This segment covered the issue of transport with a 'race' from Phibsboro to Leeson Street bridge to see who would win. One presenter travelled by car, another by Luas and the third by bus. The issue was topical because of the extension of the new Green Line across Dublin City on 9th December 2017 last.

The Committee noted that the presenter used his mobile phone as a stop-watch and displayed it to the camera on two occasions, while the car was stationary. The presenter also used a handsfree kit to speak to other participants whilst sitting in traffic. While the Committee believe that due care could have been more strongly demonstrated by the broadcaster, the Committee did not find evidence that the



presenter's use of his mobile phone would cause viewers to imitate his behaviour or that it undermined the authority of the State.

In view of the above, the Committee did not agree that the programme infringed the requirements of the broadcasting legislation and the Code in the manner specified by the complainant. Accordingly, the complaint was rejected.



Complaint made by: Mr. Robert Dunne

Ref. No. 27/18

Station:

RTÉ One

Programme:

Claire Byrne Live

Date:

12th March 2018

1. Programme

The complaint concerns Claire Byrne Live, a current affairs programme broadcast on Monday evening at 10.35pm.

2. Complaint Category

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

3. Complaint Summary

The complaint concerns an interview on the issue of misogyny and sexual abuse in the Catholic Church. The complainant is of the view that the panel consisted of two people who were highly critical of the Catholic Church and, with no contrary view offered, the programme was not fair to all interests concerned. The complainant is of the view that the presenter failed to be impartial and that this, and the makeup of the panel resulted in a programme which was not objective, fair or impartial.

4. Broadcaster Response

The broadcaster notes that the context for the broadcast was former President Mary McAleese's revelations of the abuse experienced by her brother while attending school in Newry, which led to a discussion about the Catholic Church. The panel consisted of Dearbhal Mc Donald, a journalist with the Irish Independent and Marie Collins, who formerly worked with the Vatican Commission.

The broadcaster maintains that every effort was made to include a range of voices by inviting other participants onto the panel, but these invitations were declined. The broadcaster disagrees with the complainant's assertion that the panelists were highly critical of the Catholic Church. The broadcaster states that one panelist is a committed Catholic and the other panelist commented on the important and positive role the Church has played in Irish society. The broadcaster maintains that both guests were invited to participate on the panel due to their knowledge of, and relevance to, the subject matter.

The broadcaster disagrees with the complainant's assertion that the presenter indicated her agreement with the opinions being expressed.

The broadcaster does not believe that the content infringed on the Code of Fairness, Objectivity and Impartiality.

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

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



The Committee noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The requirement also includes that a current affairs item is presented with due accuracy and that views and facts should not be misrepresented or presented in such a way as to render them misleading.

The discussion focused on the role of women in the Catholic Church and took place in the context of Mary McAleese's interview regarding the abuse her brother had experienced while attending St. Colman's College. The Committee noted that the guests, Dearbhal Mc Donald from the Irish Independent and Marie Collins, former member of the Vatican Commission for the Protection of Minors, were knowledgeable about the subject matter and their participation in the programme was relevant. The Committee further noted that the programme was a discussion about a narrow topic and did not expand into a larger discussion or debate about the Catholic Church. The panel were critical of the Church in relation to the role of women in the Catholic Church but the Committee did not agree that their contributions led to a lack of fairness, objectivity or impartiality on the part of the broadcaster. The Committee further noted that the broadcaster made attempts to secure a contributor and offered other views through the inclusion of opinion poll results.

In view of the above, the Committee did not find evidence that the programme infringed the requirements of the Broadcasting Act, 2009 in the manner specified by the complainant. On this basis the complaint was rejected.



Complaint made by: Mr. John Geoghegan

Ref. No. 29/18 & 30/18

Station:
RTÉ One

Programme:
Six One News

Date:
30th March 2018
06th April 2018

1. Programme

The complaint concerns two reports broadcast on the Six One News on two separate dates.

2. Complaint Category

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

3. Complaint Summary

The complaints concern two reports on the conflict in Gaza. The complainant is of the view that both reports failed to be objective or impartial. The complainant takes issue with a number of aspects of the reports; Firstly, the complainant believes that the inclusion of the interview with an Israeli government spokesperson, coupled with the inclusion of a quote from an Israeli military spokesperson, led to a biased view of the events being presented.

Secondly, the complainant was of the view that the use of the term “clashes” by the broadcaster suggested a tit for tat exchange of actions and the complainant believes that use of this term was, whether deliberately or inadvertently, supporting the Israeli military’s assertion that their actions are only in response to provocation by Palestinians.

Thirdly, the complainant maintains that the broadcaster did not include all available facts in either report and stated that there are many video clips available of Palestinian protestors being shot by Israeli forces, which the broadcaster chose not to use. The complainant is of the view that the broadcaster failed to explore the available information, particularly in relation to the numbers of dead and injured. It is the opinion of the complainant that the exclusion of relevant facts resulted in reports which failed to be objective or impartial.

4. Broadcaster Response

The broadcaster states that while it was regrettable that it did not have a Palestinian voice in the report, the report did include an explanation regarding why the march was taking place and the report also put forward the views of the event organisers. The broadcaster also states that the Palestinian death toll was provided in the report, together with a clip of a spokesperson for the UN Commissioner of Human Rights in which she called on Israel to exercise restraint in its response to the protesters.

The broadcaster states that it does not have a reporter on the ground and, as such, it relies on trusted international agencies and sources to supply material. On this occasion there was no interviews or excerpts of interviews with Palestinians available. The broadcaster maintains that the reports put forward the Palestinian side and achieved balance in doing so.

The broadcaster disagrees with the complainant’s interpretation of the term “clashes” and is of the view that the term is acceptable in the context in which it was used. Further, the broadcaster believes that



the UN's spokesperson's comments about Israel's use of excessive force would have provided viewers with a clear understanding that the matter wasn't even-sided.

In relation to the complaint regarding the 6.01 news on 30th March, the broadcaster states that the report was introduced by states that "Palestinian officials say 12 people have been killed and hundreds have been injured by Israeli gunfire on the border with Gaza."

The broadcaster states that with events like this, verifying figures for fatalities and casualties can take time to collate and can change quickly even before a report goes to air. However, the broadcaster claims that the Six One news report clearly reflected the scale and seriousness of the unfolding story as it went to air.

5. Decision of the Compliance Committee Rejected (Unanimous)

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

The Compliance Committee noted that complaint reference 29/18 and 30/18 relate to two broadcasts of Six One News. The Committee noted that the complainant and broadcaster have addressed these as joint complaints. The Committee considered each broadcast individually, however, this decision will address both complaints.

The Compliance Committee noted that the complaints were made under Sections 4.1 and 4.2, of the Code. The Committee noted that broadcasters are required to ensure that news and current affairs content is compiled, produced and presented in a manner which is and can be seen as, independent, unbiased and without pre-judgement. The Committee was mindful that the broadcaster has editorial rights in relation to what it wishes to broadcast. What is necessary is that the production, reporting and questioning on any news or current affairs item is credible, trustworthy and editorially independent.

The Committee noted that report on the Six One News on 30th March contained a clip of the Hamas leader and with an Israeli military spokesman, both commented on the fighting that had taken place. The broadcast aired on 6th April included a clip of a spokesperson for Israeli Prime Minister Office and also contained footage of the spokesperson for the UN High Commission for Human Rights. In relation to numbers wounded by live fire, the Committee found that the introduction to both reports provided numbers of those shot dead and the numbers wounded during the protests. Each broadcast provided a range of views regarding the events being reported.

The Committee also considered the complainant's concerns regarding use of the term "clashes" in the report and was of the view that this term was used in context and did not lead to the broadcast being partial or misleading. The Committee did not find evidence to support the complainant's assertion that the broadcaster either deliberately or inadvertently displayed support for Israeli military assertion that their actions were only in response to provocation by Palestinians.

The Committee noted that there is no requirement in the Code for a broadcaster to cover every aspect of a news item and was mindful that the Code is not intended to govern perceptions of 'bias' on the basis of topics and/or subject areas that a broadcaster has chosen not to cover. On balance, the Committee found the reports to be factually accurate, with no evidence of a lack of editorial independence. The Committee considered the broadcasts in their entirety and was of the view that both news stories were reported in a manner which was objective and impartial.



In view of the above, the Committee did not find evidence that the programme infringed the requirements of the Broadcasting Act, 2009 in the manner specified by the complainant. On this basis the complaint was rejected.



Complaint made by: Mr. David Hartery

Ref. No. 33/18

Station:

RTÉ One

Programme:

Claire Byrne Live

Date:

14th May 2018

1. Programme

The complaint concerns a broadcast of Claire Byrne Live - Referendum Special, the focus of which was a debate on the referendum to repeal 8th Amendment to the Constitution.

2. Complaint Category

Broadcasting Act 2009 – Section 48(1)(b)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1, 4.2, 4.17, 4.19 & 4.27.

3. Complaint Summary

The complainant is of the view that the programme lacked impartiality. The complaint focuses on the treatment of Dr. Peter Boylan, a panelist who supported the repeal of the 8th Amendment. The complainant states that another panelist made an assertion that Dr. Boylan tells lies but states that the latter was not given the opportunity to respond. It is the view of the complainant that this is inconsistent with how the panelist representing the 'No' side were treated. The complainant provides an example of this, in which Mary Butler T.D. was afforded a chance to respond to a comment by Senator Catherine Noone made regarding the 'No' campaign. It is the view of the complainant that each side being treated differently resulted in an unfair and impartial debate.

The complainant claims that the presenter failed to moderate the debate well and, as a result, the audience was not sufficiently controlled and was allowed to shout. The complainant felt that the audience on the 'No' side were quite aggressive and was of the view that this was unfair to the 'Yes' side and also led to the 'No' side receiving undue prominence. The complainant also stated that the format and moderation did not allow for a rigorous debate in which each side was offered a fair chance to respond.

4. Broadcaster Response

The broadcaster states that the programme provided both sides with equal opportunity to express their viewpoints and that the panel represented both sides of the debate. The broadcaster rejects the complaint and is of the view that it is factually inaccurate.

Referring to the aspect of the complaint which related to the comment made by Deputy McGrath about Dr. Boylan, the broadcaster states that the presenter immediately intervened. The presenter addressed the panel and the audience, requesting all to refrain from calling people liars. The broadcaster believes that the presenter explicitly stated that such remarks were unfair and believes that in making this intervention, the presenter fully discharged her responsibilities to ensure the debate was fair to all concerned. The broadcaster further states that it is factually incorrect to say Dr. Boylan was not afforded an opportunity to reply. The presenter returned to Dr. Boylan a few minutes after the initial comment and he was allowed to discuss the matter uninterrupted for a minute and a half.

The broadcaster also addresses the complainant's concerns regarding the audience participation. The broadcaster states that this was a fluid, fast moving programme which invited contributions from a larger



than usual audience. The broadcaster notes that, at times, it was a heated and emotive debate on an issue that has proved deeply divisive. However, it is the view of the broadcaster that the audience was divided equally and that the presenter, on a number of occasions, asked the audience and panel to be respectful of others' views.

The broadcaster is of the view that the debate was fair and equitable and that there is no basis for the complaint to be upheld.

5. Decision of the Compliance Committee Reject (Unanimous)

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

The Compliance Committee noted that the complaint was made under Sections 4.1, 4.2, 4.17, 4.19 and 4.27 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The Code also requires that a current affairs item is presented with due accuracy and that views and facts should not be misrepresented or presented in such a way as to render them misleading. The Code further states that coverage of an election or a referendum shall comply with guidelines and codes of practice issued from time to time by the BAI.

The Committee had regard for the complainant's belief that the format of the programme allowed for the 'No' side to be aggressive and to make allegations about Dr. Peter Boylan, a campaigner for the 'Yes' side, which, in the view of the complainant, led to an unfair and one-sided debate. The Committee noted that the audience participation was volatile at times, however, it was a live debate about an emotive issue and the robust nature of the debate would be expected and is consistent with past coverage of referenda debates. The Committee noted that a wide range of views were explored throughout the programme and both sides of the debate were afforded the opportunity to present various viewpoints.

In relation to the complainant's objection to the treatment of Dr. Boylan, the Committee was of the view that Dr. Boylan was given ample opportunity to address comments which were made about him and the Committee did not find evidence of unfair treatment towards any particular contributor or any particular side of the debate. The Committee found the programme to be objective and impartial, with no evidence that views and facts were misrepresented or presented in such a way as to render the programme misleading. The Committee also found that the programme did not infringe the guidelines in respect of coverage referenda coverage which were issued by the BAI in March 2018.

In view of the above, the Committee did not find evidence that the programme infringed the requirements of the Broadcasting Act, 2009 in the manner specified by the complainant. On this basis the complaint was rejected.



Complaint made by: Mr. Jonathan Scales

Ref. No. 36/18

Station:

RTÉ One

Programme:

Claire Byrne Live

Date:

14th May 2018

1. Programme

The complaint concerns a broadcast of Claire Byrne Live - Referendum Special, the focus of which was a debate on the referendum to repeal 8th Amendment to the Constitution.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality); the BAI Code of Fairness, Objectivity in News and Current Affairs - Rules 4.1 and 4.2. Broadcasting Act 2009 - Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards - Principle 3.

3. Complaint Summary

The complainant claims that the presenter failed to sufficiently moderate the debate which, in the view of the complainant, allowed audience members who supported the 'No' side to whoop and holler over speakers for the 'Yes' side. This made the programme very difficult to watch and also resulted in the 'No' side being afforded more airtime, with 'Yes' campaigners being interrupted by the presenter or heckled by the audience.

4. Broadcaster Response

The broadcaster states that this was a fast moving programme that invited contributions from a larger than usual audience, which was divided equally between advocates for both sides of the campaign.

The broadcaster further states that the presenter did not display bias towards any side in the debate, instead the presenter challenged both sides and invited alternative views from the audience. In relation to members of the disruptive audience members, the broadcaster acknowledges that the debate was heated and that the audience contributed to a passionate atmosphere on a very divisive issue. However, the presenter, on a number of occasions requested the audience and panel to be respectful of each other's view. The broadcaster, therefore, believes that the programme was fair and equitable to all concerned.

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

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

The Compliance Committee noted that the complaint was made under Sections 4.1 and 4.27 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The Code also requires that a current affairs item is presented with due accuracy and that views and facts should not be misrepresented or presented in such a way as to render them misleading. The Code further states that



coverage of an election or a referendum shall comply with guidelines and codes of practice issued from time to time by the BAI.

The Committee noted the complainant's belief that the format of the programme allowed for the 'No' side to be offensive and interrupt speakers who were in favour of repealing the 8th Amendment. In the view of the complainant this led to an unfair and one-sided debate. The Committee noted that the audience participation was volatile at times, however, it was a live debate about an emotive issue and the robust nature of the debate would be expected and is consistent with past coverage of referenda debates. The Committee noted that a wide range of views were explored throughout the programme and both sides of the debate were afforded the opportunity to present various viewpoints.

The Committee noted that the complaint was also made under Principle 3 of the Code of Programme Standards. However, as the complainant did not provide reference to how the content infringed this Code, the Committee could not consider this aspect of the complaint.

In view of the above, the Committee did not find evidence that the programme infringed the requirements of the Broadcasting Act, 2009 in the manner specified by the complainant. On this basis the complaint was rejected.



Complaint made by: Mr. Brendan O'Regan

Ref. No. 38/18 & 39/18

Station:

Newstalk 106-108FM

Programme:

Pat Kenny Show

Date:

15th May 2018

16th May 2018

1. Programme

The complaint concerns two episodes of the Pat Kenny Show, a current affairs programme broadcast daily from 9am to 12pm.

2. Complaint Category

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

3. Complaint Summary

The complaints concern two interviews which were conducted on consecutive days. The first interview was conducted with Dr. Boylan, an advocate for repealing the 8th Amendment. The complainant states that Dr. Boylan had appeared on Claire Byrne Live the night previous to his appearance on the Pat Kenny Show and, in the view of the complainant, the latter interview allowed Dr. Boylan to criticize the Claire Byrne Live Debate and to insult Maria Steen with regard to her contribution to the debate. The complainant does not believe that the presenter challenged the interviewee on his points of view. Overall, the complainant is of the view that the interview was soft and unchallenging.

The second interview was with Maria Steen, an advocate against repealing the 8th Amendment. The complainant is of the view that there was a marked difference in the tone and content of the questions that the presenter put to Ms. Steen, in comparison to the questions the presenter put to Dr. Boylan. The complainant is of the view that the interview with Ms. Steen was extremely challenging and combative. It is the view of the complainant that the comparison between the two interviews is such that it displays a bias on behalf of the presenter.

4. Broadcaster Response

The broadcaster states that Dr. Boylan is a well-known advocate for the 'Yes' campaign and is also a doctor and leading consultant obstetrician who is in a position to contribute medical facts and information to the general debate. The broadcaster disagrees with the complainant's view that the Dr. Boylan was allowed free rein during the interview. The broadcaster states that Dr. Boylan was afforded the opportunity to present his viewpoint fully and transparently and the broadcaster believes that listeners would have understood his role in the debate.

The broadcaster acknowledges that the interview with Ms. Steen was robust but is of the view that it was entirely fair. The broadcaster states that Ms. Steen was afforded the opportunity to challenge the comments which Dr. Boylan had made during the previous day's interview and she also voiced her criticism of the tone and tenor of the interview with Dr. Boylan and questioned the presenter's role in said interview.

The broadcaster maintains that the coverage of the 8th Amendment across Newstalk as a whole, was carefully moderated to ensure such an important and emotive issue was debated fully and properly.



5. Decision of the Compliance Committee Reject (Unanimous)

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

The Compliance Committee noted that complaint reference 38/18 and 39/18 relate to the Pat Kenny Show broadcast on Newstalk on two consecutive days and that both the complainant and Newstalk have addressed these as a joint complaint. The Committee, while considering each programme on its individual merits, determined these as related broadcasts. In making this determination, the Committee had regard for matters such as the dates of broadcast and the subject matter being discussed.

The Compliance Committee noted that the complaints were made under Sections 4.1 and 4.2, of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The Code further requires the broadcaster to comply with the principles of fairness, objectivity, impartiality, accuracy, responsiveness, transparency and accountability.

The Committee noted that the interview with Dr. Boylan focused on, among other matters, the Referendum debate which had been aired the previous night on RTÉ, the call for Dr. Boylan to stop campaigning for the 'Yes' side and the views of obstetricians on a more general level. The interviewee was allowed to provide his view on the matters being discussed, however, the Committee noted that presenter asked challenging questions and provided an alternate view on several occasions. The Committee were of the view that the topic was dealt with in an objective and impartial manner.

The Committee noted that Maria Steen's participation on the programme was a result of a request from Ms. Steen, in which she wished to discuss the interview with Dr. Boylan which had aired on the previous day. The Committee noted that the presenter allowed Ms. Steen to give her views on the interview with Dr. Boylan, including the presenter's style, as well as giving her views on the Referendum. The presenter challenged Ms. Steen on several occasions, however, the Committee did not find any evidence to support the complainant's belief that the presenter treated the interviewee in an unfair manner.

The Committee is of the view that both interviews were conducted in a manner which was fair, objective and impartial to the interviewees and the subject matters under discussion. The presenter ensured that there was access to a range of views through robust questioning, playing devil's advocate and challenging the views of the contributors.

In view of the above, the Committee did not find evidence that the programme infringed the requirements of the Broadcasting Act, 2009 in the manner specified by the complainant. On this basis the complaint was rejected.



Complaint made by: Ms. Margaret Hickey

Ref. No. 40/18 & 41/18

Station:

Newstalk 106-108FM

Programme:

Pat Kenny Show

Date:

15th May 2018

16th May 2018

1. Programme

The complaint concerns the Pat Kenny Show, a current affairs programme broadcast daily from 9am to 12pm.

2. Complaint Category

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

3. Complaint Summary

The complaint concerns an interview with Maria Steen, an advocate against repealing the 8th Amendment. The complainant noted that this interview followed an interview the previous day with Dr. Peter Boylan, an advocate for repealing the 8th.

The complainant is of the view that there was a marked difference in the tone and content between the presenter's questions to Dr. Boylan and to Ms. Steen. The complainant states that Ms. Steen accused the presenter of giving Dr. Boylan soft questions and the complainant is of the view that this is accurate.

The complainant states that Dr. Boylan was treated differently to Ms. Steen and that he was allowed to finish his points without interruption. The contrasting interview style shows a lack of fairness as Ms. Steen was challenged and interrupted by the presenter on many occasions.

4. Broadcaster Response

The broadcaster is of the view that the programme is compliant with the BAI's Broadcasting Codes. The broadcaster notes that the complainant has made two complaints regarding two broadcasts of the Pat Kenny Show on consecutive days. The first broadcast took place on 15th May and contained an interview with contributor Dr. Boylan, who was in favour of repealing the 8th Amendment. The second programme contained an interview with Ms. Maria Steen, who was advocating against repealing the 8th Amendment. The broadcaster states that these two interviews should be considered together as the second interview was scheduled after Ms. Steen objected to Dr. Boylan's interview.

The broadcaster states that the interview with Ms. Steen was a result of her request at a chance to challenge the tone and tenor of the interview with Dr. Boylan the previous day, a request which was accepted.

The broadcaster maintains that the interview was robust but entirely fair and that Ms. Steen was given every opportunity to challenge comments made by Dr. Boylan, to criticise the tone and tenor which the presenter adopted when interviewing Dr. Boylan and set out her own views on the Referendum.



The broadcaster further states that the coverage across the Pat Kenny Show and Newstalk as a whole has been moderated to ensure that the debate is carried out in a manner which complies with the Codes.

5. Decision of the Compliance Committee Reject (Unanimous)

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

The Compliance Committee noted that complaint reference 40/18 and 41/18 relate to the Pat Kenny Show broadcast on Newstalk on two consecutive days and that both the complainant and Newstalk have addressed these as a joint complaint. The Committee, while considering each programme on its individual merits, determined these as related broadcasts. In making this determination, the Committee had regard for matters such as the dates of broadcast and the subject matter being discussed.

The Compliance Committee noted that the complaints were made under Sections 4.1 and 4.2, of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The Code further requires the broadcaster to comply with the principles of fairness, objectivity, impartiality, accuracy, responsiveness, transparency and accountability.

The Committee noted that the interview with Dr. Boylan's focused on, among other matters, the Referendum debate which had been aired the previous night on RTÉ, the call for Dr. Boylan to stop campaigning for the 'Yes' side and the views of obstetricians on a more general level. The interviewee was allowed to provide his view on the matters being discussed, however, the Committee noted that presenter asked challenging questions and provided an alternate view on several occasions. The Committee were of the view that the topic was dealt with in an objective and impartial manner.

The Committee noted that Maria Steen participation on the programme was a result of a request from Ms. Steen, in which she wished to discuss the interview with Dr. Boylan which had aired on the previous day. The Committee noted that the presenter allowed Ms. Steen to give her views on the interview with Dr. Boylan, including the presenter's style, as well as giving her views on the Referendum. The presenter challenged Ms. Steen on several occasions, however, the Committee did not find any evidence to support the complainant's belief that the presenter treated the interviewee in an unfair manner.

The Committee is of the view that both interviews were conducted in a manner which was fair, objective and impartial to the interviewees and the subject matters under discussion. The presenter ensured that there was access to a range of views through robust questioning, playing devil's advocate and challenging the views of the contributors.

In view of the above, the Committee did not find evidence that the programme infringed the requirements of the Broadcasting Act, 2009 in the manner specified by the complainant. On this basis the complaint was rejected.



Complaint made by: Ms. Margaret Hickey

Ref. No. 42/18

Station:

TV3

Programme:

The Pat Kenny Show
Referendum Special

Date:

23rd May 2018

1. Programme

The complaint concerns The Pat Kenny Show: Referendum Special, which focused on the referendum to repeal 8th Amendment to the Constitution.

2. Complaint Category

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

3. Complaint Summary

The complainant is of the view that the presenter displayed bias through his treatment of Maria Steen, an advocate for the 'No' side. The complainant is of the view that Ms. Steen was constantly interrupted by the presenter and by Minister Doherty, a panelist representing the 'Yes' side of the debate. The complainant believes that the presenter was displayed a lack of objectivity in his treatment of Ms. Steen and found that the programme failed to be fair or impartial.

4. Broadcaster Response

The broadcaster states that the discussion, which featured two contributors from both the 'Yes' and 'No' sides of the debate, as well as contributions from the audience, was fair to all sides. The broadcaster took steps to ensure that both sides were offered equal opportunity to respond and the broadcaster informed panelists and audience members that contributions were being timed to ensure balance. The broadcaster states that they aimed to allow as many people as possible to take part, however, this sometimes necessitated the presenter asking people to finish their contribution. The broadcaster further states that a robust moderation was appropriate given the importance of the subject matter being debated.

The broadcaster acknowledges that Ms. Steen was interrupted or challenged at times, however, the broadcaster states that Ms. Steen is a formidable debater and, further, this treatment was no different to the treatment of any other contributor. The broadcaster states that the treatment of Ms. Steen, the role of Pat Kenny and the overall debate could not be considered as being unfair or as advocating a partisan position.

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

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

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



current affairs item is presented with due accuracy and that views and facts should not be misrepresented or presented in such a way as to render them misleading. The Code further states that coverage of an election or a referendum shall comply with guidelines and codes of practice issued from time to time by the BAI.

The Committee noted that the complainant believes that Maria Steen was treated unfairly by the presenter and that his treatment rendered the programme neither impartial nor objective. The Committee noted that a number of contributors spoke both for and against repealing the 8th Amendment and that the presenter interrupted contributors from both sides of the debate at various times throughout the show. The Committee found that the presenter moderated the debate fairly and did not believe that his treatment of Ms. Steen indicated bias, nor did the Committee find the presenter's treatment of any contributor to infringe the requirement for a programme to be fair, impartial and objective.

The Committee noted that the approach adopted by the broadcaster in running this debate was to aim for a 50/50 time-allocation for each side and it was in this context that the presenter cut some contributions short. While there is no requirement for equal airtime, the broadcaster may adopt the editorial approach they feel will best facilitate a range of voices and a debate which is fair, impartial and objective.

The Committee did not find evidence to support the complainant's view that the presenter displayed bias and was found that the programme was fair, impartial and objective. As such, the complaint was rejected.



Rejected by Executive Complaints Forum

Complaint made by: Mr. Michael Lenehan

Ref. No. 20/18

Station:

RTÉ One

Programme:

What in the World

Date:

6 February 2018

1. Programme

The complaint concerns What in the World, a documentary featuring the conflict situation in Syria.

2. Complaint Category

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

3. Complaint Summary

The complaint concerns a documentary covering the conflict in Syria. The complainant believes the broadcast demonstrated bias in favour of the Assad regime by denying the suffering of people in Eastern Aleppo under Assad's forces, Russia's airforce and Iranian-funded militias. The complainant also states that bias was evident by the failure to mention the peaceful opposition in Syria and the crackdown on peaceful protestors.

4. Broadcaster Response

The broadcaster refutes the claim made by the complainant that the documentary denies the suffering of the people of Aleppo. The broadcaster maintains that the film highlighted a range of suffering by those caught up in the war, reflecting the reality that war is ugly. The broadcaster noted that all of the main parties to the conflict were noted in the film.

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

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

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The requirement also includes that a current affairs item is presented with due accuracy and that views and facts should not be misrepresented or presented in such a way as to render them misleading.

The Forum had regard to the programme type and noted that this is a documentary-style programme which looks at a range of topics. The Forum noted that the programme was a factual look at people who live in Aleppo. The programme-makers adopted a human-interest approach to the subject matter and focused on the personal loss and suffering experienced by the people of Aleppo. The documentary provided context to the programme in the form of some facts about war in Syria, however, the Forum were not of the view that this was a current affairs programme about the conflict in that country. Instead,



this was a human-interest documentary with a focus on the impact of war on the inhabitants of Aleppo. The Forum was of the view that the content of this programme was such that it did not constitute current affairs and, as such, the requirements under the Code do not apply. On this basis the complaint was rejected.



Complaint made by: Mr. David O'Connell

Ref. No. 21/18

Station:

RTÉ One

Programme:

Fair City

Date:

7th February 2018

1. Programme

The complaint concerns an episode of 'Fair City, which is soap opera broadcast 4 nights per week at 8pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards - Principle 1 (Respect for Community Standards) and Principle 3 (Protection from Harm).

3. Complaint Summary

The complaint concerns an episode of Fair City, when, during a kidnap scene, the kidnapper threatens his victims with a loaded syringe and a scalpel. The complainant believes this type of violent behaviour is unsuitable for viewing by a mixed audience at 8pm in the evening.

The complainant maintains that the content could engender fear and anxiety among elderly viewers and desensitise younger people to brutal and sadistic behaviour.

4. Broadcaster Response

The broadcaster notes that this episode of Fair City carried an onscreen Parental Supervision classification notice together with a pre-warning by the continuity announcer.

The broadcaster is of the view that while the storyline is dramatic and unsettling, it is common in soap operas to deal with such situations. Fair City frequently reflects events and issues that arise in everyday life. However, the broadcaster believes that the scene complained of was not gratuitous nor did it glamorize or promote such behaviour. The broadcaster further maintains that while there was a threat by the main character to use a syringe, the scene did not encourage "copycat" behaviour nor encourage or favorably present the abuse of drugs.

Given the prior warnings, the audience expectation and the overall tenor of the scene, that the actions of the main character were wrong and criminal, the broadcaster believes that the Code has not been infringed.

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

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

The Forum noted the complaint was submitted under the Code of Programme Standards – Principles 1 and 3. The Code requires that content has respect for general community standards and that broadcasters take due care to ensure audiences are not exposed to harmful programming.



The Forum noted that Fair City is a popular Irish soap, which is based on the lives of a fictional community in Dublin. The Forum acknowledged the broadcaster's right to editorial independence in developing characters and storylines and were of the view that the content was justified in the context of the character and storyline.

It was the view of the Forum that the depiction in the programme could not be reasonably expected to encourage people to imitate acts which could cause harm. The Forum also took note of audience expectation and felt that audiences could reasonably expect such storylines in a soap. The Forum found that the broadcast was unlikely to cause widespread offence. Further, the Forum noted the broadcaster's use of a verbal warning of viewer discretion and found that due care was taken. On this basis, the complaint was rejected.



Complaint made by: Mr. Paul Carroll

Ref. No. 26/18

Station:

RTÉ Radio One

Programme:

The Marian Finucane Show

Date:

11 March 2018

1. Programme

The complaint concerns 'The Marian Finucane Show', which is a magazine style programme that includes elements of current affairs, lifestyle and human-interest topics. The programme is broadcast every Saturday and Sunday morning from 11am to 1pm.

2. Complaint Category

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

3. Complaint Summary

The complaint concerns a newspaper panel discussion on the 8th Amendment and the role of women in the Catholic Church. The complainant maintains that the panel contained one person who represented the Catholic Church, Fr. Twomey. It is the view of the complainant that Fr. Twomey was treated unfairly by the presenter, who interrupted him continuously and aggressively. The complainant believes that the presenters' constant interruptions of Fr. Twomey led to an unbalanced programme.

4. Broadcaster Response

The broadcaster states that the presenter asked questions, where necessary, and moved the conversation along. Fr. Twomey was given ample opportunity to respond to points and questions raised. The broadcaster maintains that the presenter also interrupted the other panelists to seek clarity and to give balance to the topic under discussion.

The broadcaster believes the content did not infringe on the Code of Fairness, Objectivity and Impartiality.

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

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

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The requirement also includes that a current affairs item is presented with due accuracy and that views and facts should not be misrepresented or presented in such a way as to render them misleading.

The Forum was of the view that the programme in its entirety was fair, impartial and objective. The members noted that the presenter questioned Fr. Twomey a number of times in relation to specific views regarding the role of women in the Catholic Church. In interrogating his views, the presenter took



on the role of 'devils' advocate' but allowed Fr. Twomey ample opportunity to respond. The Forum noted that Fr. Twomey is an experienced interviewee and would expect such robust debate, which was evidenced by his ability to respond to such challenges.

The Forum noted that the tone of the interview was genial and there was occasional banter between the presenter and interviewees. The questions posed by the presenter were considered, by the Forum, to be relevant and typical of this programme and the presenter's particular style.

In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act, 2009 in the manner specified by the complainant. On this basis the complaint was rejected.



Complaint made by: Mr. Brendan Kelleher

Ref. No. 28/18

Station:

RTÉ Radio 1

Programme:

This Week – Lunchtime News

Date:

18th February ,2018

1. Programme

The complaint concerns a news programme which is broadcast on Sundays at lunchtime.

2. Complaint Category

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

3. Complaint Summary

The complaint concerns an interview with Ms. Cora Sherlock, Pro-Life spokesperson, regarding the upcoming vote on the 8th Amendment when the interviewer put questions to her regarding the treatment of abortion in Northern Ireland. The complainant was of the view that introducing what he considers was an irrelevant and incorrect comparison between the standards in the Republic and Northern Ireland, was not valid and the questioning in this regard negated Ms. Sherlock's right to a fair, objective and impartial hearing.

4. Broadcaster Response

The broadcaster rejects the complainant's assertions and states that the interview was probing but courteous and respectful. The broadcaster was of the view that raising the position in Northern Ireland was appropriate given Ms. Sherlock's view that UK style abortion access is "inevitable" in Ireland in the absence of a constitutional protection for the unborn. It was also apt to query how Northern Ireland legislators have found it possible, within the UK, to maintain a restrictive position on abortion for 51 years, regardless of which political party was in government.

The broadcaster believes the content did not infringe on the Code of Fairness, Objectivity and Impartiality.

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

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

The Forum had regard to the type of programme and the context of the interview and they found that the questions and challenges posed by the interviewer were appropriate to the discussion and the subject matter. The comparison with Northern Ireland was a fair question for the interviewee was given ample time to answer the questions posed. Considering the programme in whole and in context, the Forum was of the view that the discussion did not infringe on the requirements for fairness, objectivity and impartiality.



In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Codes in manner specified by the complainant. Accordingly, the complaint was rejected.



Complaint made by: Mr. Denis Maher

Ref. No. 32/18

Station:

Newstalk 106-108FM

Programme:

Newstalk Breakfast

Date:

23rd April 2018

1. Programme

The complaint concerns 'Newstalk Breakfast', broadcast each weekday morning from 7am – 9am.

2. Complaint Category

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

3. Complaint Summary

The complaint concerns comments made by Mr. Paul Williams after his co-presenter, Mr. Shane Coleman, read a headline from the Irish Daily Mirror which related to an attempted prison break in which a convicted murderer broke his hand. Before reading from the broadsheets, Paul Williams commented on the prisoner and stated that he hoped the broken hand keeps him awake for nights. The complainant is of the view that this comment was unwarranted and promotes the personal view of one of the presenters. The complainant states that, by giving his own views, the presenter did not abide by the requirement for objectivity and impartiality.

4. Broadcaster Response

The broadcaster states the complaint refers to a comment made in relation to the newspaper segment on the programme at approximately 7.40am. The broadcaster contends that regular listeners to the programme will be aware of the newspaper segment and that topics of the day are discussed and that the purpose of the Show is to give an authored view, as permitted under the Code, and inform the listener of the newspaper headlines. The comment made by the presenter that the prisoner be kept awake at night is a sentiment held by a majority of the public.

The broadcaster believes the content did not infringe on the Code of Fairness, Objectivity and Impartiality.

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

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

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

The complaint concerns a personal comment made by presenter Paul Williams during the review of the main stories in the newspapers that day. The Forum noted that the presenter referred to a number of articles on a range of topics before discussing the story regarding a well-known criminal who is serving



a life sentence for murder. The newspaper article related to an escape attempt by the prisoner and a fight which resulted in the prisoner fracturing his hand. It is in this context which Paul Williams commented that he hoped the prisoner's "broken hand keeps him awake for nights and nights and nights to come".

The Forum noted that the comment was the presenter's personal view, however, the review of the newspapers is a regular slot on the Newstalk Breakfast Show and is synonymous with the presenters' particular personalities and style. The members noted that that this was an off-the-cuff remark, for which Paul Williams immediately apologized. The Forum was of the view that the comment did not render the piece impartial or unfair and the swift apology facilitated in negating the earlier remark.

Further, the Forum noted that the requirement for news and current affairs to be broadcast without any expression of the broadcaster's own views does not refer to individual presenters, rather to the entity which owns or operates the broadcast service. While this does not exempt individuals from the obligations of the Code, the Forum did not find that the comments could be considered as infringing requirements regarding fairness, objectivity and impartiality. On this basis, the complaint was rejected.