



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

Broadcasting Authority of Ireland

Broadcasting Complaint Decisions

December 2014

Broadcasting Complaint Decisions

Under the Broadcasting Act 2009, viewers and listeners can complain about broadcasting content which they believe is not in keeping with broadcasting codes and rules. In line with the complaint process, the viewer or listener should direct their complaint to the broadcaster in the first instance with regard to 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 complaints, and having regard to the codes and rules, the BAI considers all written material submitted by the relevant parties together with the broadcast material. Complaints are assessed at Executive level and/or by the Compliance Committee of the Authority. The details of the broadcasting complaints decisions reached by the BAI are set out in this document.

At its meeting held November 2014, the Compliance Committee rejected four complaints. Five complaints were resolved by the Executive Complaints Forum at its meetings held in November 2014.

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Rejected by BAI Compliance Committee

Complaint made by: Mr. Karl Martin

Ref. No. 106/14

Station:

RTÉ Radio One

Programme:

Morning Ireland

Date:

17th July 2014

Complaint Summary:

Mr. Martin's complaint is submitted under the Broadcasting Act 2009, Sections 48(1)(a)(fairness, objectivity and impartiality in news and current affairs) and the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rules 1, 2, 17 and 20).

The complainant states that the presenter, Fran McNulty, interviewed a Hamas spokeswoman based in Gaza. The complainant states that several times during the interview, the presenter referred to the recent tragic killing of four young boys on a beach by fire from an off-shore Israeli naval gunboat as 'murder'. The complainant states that the Hamas spokeswoman did not refer to this tragic incident as 'murder' and she is the spokesperson for an organisation classed as terrorist by the EU, US, Canada, Japan etc.

The complainant states:-

- That until lawful authority establishes that this fatal incident was not an accidental killing based on mistaken identification, it is wrong and/or biased to repeatedly state that the action was 'murder';
- That in the circumstances, the use of the loaded term 'murder' could lead to incitement to hatred (against the world's only Jewish state and its citizens); and
- That the use of the loaded term 'murder' in such a case is, in any event, counter to RTÉ's own stated practice in such cases in the past.

Broadcaster's Response:

Initial response to complainant:

RTÉ states that they regret the use of this inappropriate and inaccurate term 'murder' for these killings. The members of the *Morning Ireland* team have been reminded of their obligation to use precise language, especially on as uniquely fraught and controversial an issue as Gaza.

Response to BAI:

RTÉ acknowledges the term 'murder' was incorrectly used; it had not been established that the killing of the four non-combatant children had been a deliberate or criminal act on the part of the Israeli Defence Forces. The fact that the children, whom no one had claimed to be combatants, were killed while playing on a beach did not in itself validate use of the term.

The broadcaster states that it should also be noted that the use of the inaccurate term was immediately addressed within the same programme when, one hour later, in the related interview with Mr. Paul Hirschson, Deputy Spokesperson of the Ministry of Foreign Affairs, Israel, the term 'killing' was used to characterise the children's deaths. The broadcaster notes that the term 'murder' was not used in this interview. RTÉ submits that under section 39(1)(b) of the Broadcasting Act 2009, these two broadcasts should be considered as a whole. This relationship between the two broadcasts is underlined by the 'trailer' for the interview with Mr. Paul *Hirschson* given at the end of the interview with Ms. Isra al-Mudallal.

The broadcaster states that in relation to Rule 17 of the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs*, while acknowledging the inaccurate use of the term 'murder' to describe the children's deaths (and addressing the incorrect usage within the related broadcast), RTÉ states that in the context of the circumstances and facts known at the time of broadcast – that four children had been killed by a targeted military strike – the usage while inaccurate was not so to a degree which infringed the Rule. The term was used to characterise the killings as those of innocent non-combatants, conceivably the result of criminal negligence or culpable homicide; this was incorrect and inappropriate language, but not to an extent which breached the Rule.

The broadcaster states that the circumstances in which the broadcast was made included the fact that the dead boys (and the children who were maimed in the attack) had not been hit by cross-fire but were playing in an area which had been specifically indicated as a safe location by Ms. Ilana Stein, Deputy Spokesperson at the Ministry of Foreign Affairs, Israel, in a *Morning Ireland* interview two days previously. In response to the question, "*When you tell people to leave because air attacks are imminent from the Israeli side, where are they supposed to go?*" she replied: "*There are other neighbourhoods that are not being attacked, there's the beach*".

The broadcaster states that in relation to Rule 20 of the Code, RTÉ points to the fact that, as indicated above, the mistake was speedily addressed in the related broadcast. The decision not to broadcast a clarification was primarily informed by the important consideration of whether the significance of a mistake warrants such broadcast clarification, when proportionality and context are taken into account. In this case it was the decision of RTÉ that, given that the shocking nature of the children's deaths was so much greater than the inaccuracy of the term used, to have broadcast a clarification (in addition to the use of an accurate term in the related broadcast) would have detracted from the appalling circumstances of those deaths, described on the programme by Israeli government spokesperson Mr. Paul Hirschson as a tragedy. RTÉ stands over that decision and believes it to be proper, proportionate and appropriate to the purpose of Rule 20.

Finally, RTÉ would point to the fact that this sole complaint about the use of the term 'murder' on the programme was not accompanied by representations from the Embassy of Israel in Ireland. This is worth noting in circumstances where the Embassy has engaged actively with broadcasters in circumstances where it believes coverage of the State of Israel has lacked fairness, objectivity and impartiality. RTÉ does not propose this absence of a complaint from the Embassy as justification for the use of the term but suggests that it may indicate that any offence given was much diminished by the circumstances in which it was used.

Decision of the Compliance Committee: Reject (Unanimous)

The Committee considered the broadcast and the submissions from the complainant and the broadcaster. Following a review of the material, the Committee has decided to reject the complaint. In reaching this decision, the Committee had regard to the Broadcasting Act 2009, Sections 48(1)(a)(fairness, objectivity and impartiality in news and current affairs) and the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rules 1, 2, 17 and 20).

In this regard:

- The Committee considered the programme in whole and in context. Accordingly, in reaching its decision, the Committee considered the specific interview about which the complaint had been made but also other coverage of the story in the same broadcast, including the interview with Mr. Paul Hirschson, Deputy Spokesperson of the Ministry of Foreign Affairs, Israel.
- Having had regard to the broadcast in its entirety, wherein the perspectives of the people of Gaza and those of the Government of Israel on the tragic death of children arising from the conflict were afforded airtime, and having noted RTÉ's acceptance that the use of the word 'murder' by the presenter was incorrect, the Committee is satisfied that the broadcaster took appropriate steps to ensure that the programme as a whole did not, on balance, infringe the requirements for fairness, objectivity and impartiality set out in the Broadcasting Act 2009 or the BAI's code covering news and current affairs content. The Committee also noted and welcomed the decision of the broadcaster to notify the programme team of the necessity of ensuring that precise language is used when covering matters of controversy.
- Accordingly, the Committee did not agree with the complainant that the programme infringed the requirements of the Broadcasting Act 2009, Sections 48(1)(a)(fairness, objectivity and impartiality in news and current affairs) or the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rules 1, 2, 17 and 20) in the manner specified by the complainant and the complaint has therefore been rejected.

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Complaint made by: Mr. Ray McIntyre

Ref. No. 107/14

Station:

RTÉ Radio One

Programme:

The Marian Finucane Show

Date:

29th June 2014

Complaint Summary:

Mr. McIntyre's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs) and the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*, (Rule 4.1 and 4.22).

The complaint refers to a discussion about same sex marriage which emanated from references made to newspaper reports on the previous day's Dublin Gay Pride parade. The complainant claims that the programme took advantage of the fact that the discussion was not a debate about same-sex marriage in order to express unreserved support for same-sex marriage. The complainant states that not a single panellist challenged the view that legislation for same-sex marriage would be anything but good, right and progressive and the presenter on the day, Mr. Brendan O'Carroll, supported this view. The complainant believes that as this discussion took place during a review of the newspapers, that RTÉ would have known that the Gay Pride parade was going to come up and wonders why the panel included no opponent to the possible introduction of same-sex marriage in Ireland.

The complainant states that same-sex marriage is the subject of current public debate and so regardless of what kind of item within which the discussion arises, it is subject to Section 39(1)(b) of the Broadcasting Act. The complainant states that if there is no panellist with opposing views then the presenter should provide the balance. The complainant claims that this was not done and indeed quite the reverse took place. The complainant states that in expressing support for the legalisation of same-sex marriage, the presenter clearly contravened the guidelines.

Broadcaster's Response:

Initial response to complainant:

RTÉ state that this was a discussion largely factual with relatively little reference to same-sex marriage and indeed the arguments against same were mentioned.

The broadcaster states that following reference to the newspaper coverage of the Gay Pride march, the discussion shifted to the more general question of whether attitudes have changed over the years, to violence towards the gay community as well as the legal history. Then it took a more human interest slant when Mr. Rory Cowan spoke about how his role in Mrs. Brown's Boys was perceived and how people reacted to him personally.

When the issue of the referendum was raised one of the panellist, Ms. Mary Hanifan, quoted from an article in that day's newspaper which she said had "*quite rightly*" raised the issues "*that must be heard or answered*".

She also referred to an article by Mr. Colm O’Gorman stating - *“What Colm O’Gorman also says... [is that]...it would be foolish to be complacent and believe that the referendum will sail through...it will not”*. She continued by saying - *“And he says quite rightly there are people who have concerns that must be heard and answered...the change in our constitution especially in an area such as marriage and family is something that Irish people take very seriously..”* The presenter, Brendan, replies...*“very seriously...we have seen that in the past”* The broadcaster states that Ms. Mary Hanifan then stated *“I don’t know when the current government is going to have the referendum ...but I don’t believe that the gay community should take it for granted that it’s actually going to pass..”*

The broadcaster states that the conversation also turned to one about violence towards gay people and how attitudes to other social issues have changed over the years.

RTÉ state that the topics for this programme are selected taking into consideration the mix of the panel of contributors, that day’s newspapers, together with the news of the day and of the week. On this particular day most papers carried the photos of the Gay Pride event due to the record turnout. The broadcaster states that Mr. Rory Cowan was asked to contribute at the last minute as it was felt that in terms of balance, it was appropriate to have at least one person from the gay community to comment on the large turnout.

Response to BAI:

The broadcaster states that the format of a Sunday edition of *The Marian Finucane Show* consists to a large extent of a discussion of the Sunday newspapers and hence the main news, culture and human interest stories of the week. A selection of panellists, with a range of knowledge and interests and background in a variety of fields, is invited to give their personal and professional views on these stories, a format with which listeners are familiar and which meets their expectations.

The broadcaster states that the section of the newspaper review of the 29th June which is the subject of complaint was occasioned by newspaper coverage of the preceding day’s Dublin Gay Pride parade. The broadcaster states that the discussion was not structured, intended or presented as a discussion of the topic of same-sex marriage.

The broadcaster states that the newspaper coverage of Dublin Pride prompted a conversation reflecting on cultural and other changes affecting the lives of homosexual people in Ireland, for the main part focused on human interest experience. The conversation was led by an actor who plays a homosexual character in the comedy series *Mrs Brown’s Boys* and who spoke of his own experience as a homosexual man. It may be noted that this contributor was a late addition to the panel in light of the extensive coverage in that morning’s papers of Dublin Pride.

The broadcaster states that references made to the possibility of a referendum on same-sex marriage were in fact more nuanced and impartial than portrayed in the complaint. For example, the existence of opposition to legislation for same-sex marriage was remarked on, and that opposition was characterised as valid: *“...there are people who have concerns that must be heard and answered...the change in our constitution especially in an area like marriage and family is something that Irish people take very seriously”*;

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and “*The issues of children, the issues of adoption, these are real concerns.*” Neither was the passing of a referendum characterised as inevitable: “*I don’t believe that the gay community should take for granted it is going to pass.*”

The remarks of the presenter are to be seen in the above context of a discussion which acknowledged that there are different perspectives on the topic of same-sex marriage. He did express a positive view of same-sex marriage but not to the degree that a partisan position was advocated; for example, his contribution included the disinterested question: “*Are they a powerful lobby, the gay lobby?*”

The broadcaster states that it may also be noted that listeners will have been aware that the guest presenter on this edition is not a professional broadcaster and not accustomed to tailoring his views accordingly. RTÉ believe that listeners will have factored this in to their expectations of the broadcast.

Decision of the Compliance Committee: Reject (Unanimous):

The Committee considered the broadcast and the submissions from the broadcaster and the complainant. Following a review of the material the Committee has decided to reject the complaint. In reaching this decision, the Committee had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs) and the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*, (Rule 4.1 and 4.22).

In this regard:-

- The Committee noted that the item about which the complaint was made was the treatment by the presenter and panellists of one topic in the context of a wider discussion of a range of stories in the Sunday newspapers from the day of the broadcast.
- The Committee noted that the format of the Sunday edition of *The Marian Finucane Show* is one driven by the stories of the day, in particular those highlighted by the guest panellists and the programme presenter and producers. As such, the focus of the programme will be on the main events and stories of the day and the week. One of these stories/events was the celebration of Dublin Pride parade and related issues.
- The programme contributions included factual descriptions of the parade, how it developed over the years in Ireland, as well as the perspectives of contributors on LGBT rights, including same-sex marriage, the readiness of the population for changes to Irish law and whether such a change is a reasonable expectation. Hence, the issue of the rights of LGBT people in general was a central part of the discussion.
- As same-sex marriage and changes to Irish law to permit such marriages is a matter of current debate, it constitutes news and current affairs content that must comply with the requirements of the Broadcasting Act 2009 and the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

Upon its review of the discussion of matters pertaining to the discussion of same-sex marriage in the broadcast, the Committee found that the programme included a range of views on the topic of same-sex marriage, the likelihood of changes to Irish law being passed by Irish voters and the need to take account of differing views on such a change in Irish law, such as the meaning of marriage and other issues.

- On the issue of the contributions by the programme presenter, the Committee found that while listeners would have benefited from more active engagement by the presenter with the guests, it was not of the view that the presenter actively endorsed proposals to change Irish legislation so as to permit same-sex marriage.
- On the issue of whether an opponent to changes in Irish law to permit same-sex marriage should have been included in the programme; it is not an absolute requirement that programme makers balance a programme by including individuals representing each side of a debate (although this may be necessary in certain circumstances).

Rather, the requirement of the Act and the BAI's regulations is for fairness in the treatment of a topic and this can be achieved by the presenter or by contributions from other guests who may not have a stated position in favour or against an issue being discussed but who, as in the case of this programme, give voice to the views of those who may oppose, or have difficulty with a change to Irish law to permit same-sex marriage.

- In view of this, it was the opinion of the Committee that the programme did not infringe the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs) and the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*, (Rule 4.1 and 4.22) in the manner specified by the complainant.

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Complaint made by: Mr. Karl Martin

Ref. No. 109/14

Station:

RTÉ Radio One

Programme:

Liveline

Date:

22nd & 23rd July 2014

Complaint Summary:

Mr. Martin's complaint is submitted under the Broadcasting Act 2009, Sections 48(1)(a)(fairness, objectivity and impartiality in current affairs) and the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rules 1, 2, 3, 17, 22 and 26).

The complainant states *Liveline's* stand-in presenter, Philip Boucher-Hayes, spent approximately 44 minutes on the conflict in Gaza and related matters. He further states that a disproportionate amount of time was given over to the anti-Israel side. The complainant states that four speakers on the anti-Israel side were given almost 40 minutes to speak after which one speaker for the pro-Israel side spoke for four minutes with interruptions from the presenter and from the other speakers. The complainant states that the pro-Israel side got a tiny proportion of the time devoted to this topic. The complainant states that at no time did the presenter make any serious attempt to redress the balance. The complainant states that during that time the following – in order of appearance – contributed:

- Derek – who said he lived in Gaza for some years but was not there at the moment. He said he was in the M.V. Rachel Corry, an obsolete coaster that attempted to steam into Gaza in 2010;
- Trevor – an ex-rugby player described by the presenter as a member of the 'Free Gaza Campaign'. He had visited Gaza;
- Abraham – a Palestinian who claimed to have been effectively 'locked out' of Gaza in 1967. He now lives in Ireland but has relatives in Gaza, including his 93 year old father;
- Rosa – an Irish woman who said she had travelled extensively in the West Bank and appeared to have identical views to Derek, Trevor and Abraham;
- Stephen – a person who had been a fervent supporter of the Palestinian/Hamas position but had come to realise that Israel had a reasonable position and only sought peaceful co-existence.

The complainant states that the *Liveline* edition had:-

- Permitted the broadcasting of inflammatory language such as 'genocide', 'ethnic cleansing', 'criminal acts of the Israelis', 'apartheid' (Israeli State), 'criminal siege', '(actions) as close to how the Nazis treated the Jews as it's possible to get', 'want to replace the indigenous people with Zionists and Jews', 'targeting of children', which he states were not challenged by the presenter;

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- Demonstrated exceptional bias because of the disproportionate amount of time devoted to the four anti-Israel contributors compared to the sole pro-Israel caller and the freedom accorded the former to defame, in the opinion of the complainant, the world's only Jewish state; and
- The discussion failed to meet the standards expected of a public service broadcaster.

The complainant states that RTÉ claims that balance can be achieved over a number of programmes and that balance can also be achieved across a range of programmes. RTÉ cites the interview with the Israeli Ambassador on 'Morning Ireland' on 22nd July and the interview with Dermot from the Israeli Embassy on *Liveline* the next day. The complainant states that RTÉ failed to mention that the Palestinian Ambassador was interviewed on 'Morning Ireland' on July 21st and that the Israeli Ambassador's interview was, in effect, a follow on to it. The complainant states that the lack of balance displayed on *Liveline* on 22nd July was not in his opinion negated by Morning Ireland's interview with the Israeli Ambassador the same morning and/or the edition of *Liveline* on the 23rd July.

The complaint also refers to the presenter who he states used the words '*legitimate form of protest action*' relating to the firing by Hamas of thousands of rockets and missiles aimed at civilian areas in Israel. He states that these words serve to diminish the full magnitude of Hamas' campaign of terror against Israeli civilian targets. The complainant states that during this broadcast, the anti-Israel activists repeatedly used the term 'resistance' to refer to either Hamas or Hamas' firing of rockets towards Israeli civilians etc.

The complainant further states that the presenter was potentially conflicted, contrary to Rule 4.17, in his coverage of this entire topic in that his name would appear to have been associated with events held by the Ireland-Palestinian Solidarity Campaign (IPSC), which he states has close links with Gaza Action Ireland.

Broadcaster's Response:

Initial response to complainant:

RTÉ states that the programme team on the day had received a large volume of calls on the subject of Gaza, which was by then in the news for a number of days. While the vast majority of calls, e-mails and text messages were in support of the plight of the people living in Gaza, the team also focused on getting as many pro-Israeli viewpoints on air. The broadcaster cites the content of the programme, in particular:

- Derek lives in Gaza. He described what it is like living there, from shortages of drinking water, to overcrowded conditions. He described the size of Gaza and the people that he knows there, including a family who was killed in the recent outbreak of fighting. He came home for his mother's funeral and was unsure when he would be able to return.
- Trevor told that he is part of Gaza Action Ireland. He went out on a flotilla to Gaza in 2011 and was captured by Israelis. He described the conditions the people are living in, in the area.

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- Abraham was born in Gaza, he is an Irish citizen now, retired in Ireland. His family is still there and he told how he is in contact with his family who are terrified at the moment. He went on to say that he is not a supporter of Hamas and that they have a lot to answer for, for hiding behind women and children, but that it is still not right what the Israelis are doing.
- Rosa also joined the discussion as she was unhappy with a comment that Philip had made *'that the Palestinian people seemed to be happy with their lot'*. She has recently returned from the West Bank and described what she saw. She went on to say just because people are resilient doesn't mean they are happy.
- Stephen spoke to Philip about the fact that he used to be a very pro Palestinian. Now he feels that Hamas is bringing this on themselves. He was of the view that Hamas needed to accept the ceasefire for the violence to end.

RTÉ further states that on the following day's *Liveline*, there was a robust response from a spokesperson at the Israeli embassy in Dublin. This covered the issues of the use of the word 'genocide' and other points that were raised on the previous programme. The broadcaster states that three other callers joined in later in the discussion, all were opposed to killings on both sides and were clear on this.

RTÉ also state on the issue of balance, because of the nature of *Liveline*, this can be achieved over a number of programmes, as callers and other interested parties react to earlier conversations. Subjects of interest can run for a number of days depending on the reaction by, and interest of, listeners. The broadcaster states that balance is also achieved across a range of programmes on RTÉ. For instance, the pro-Israeli view was offered by the Israeli ambassador to Ireland, His Excellency Boaz Modai, who was a guest on the Morning Ireland programme earlier on the morning of the 22nd July – this was a 16 minute telephone interview with no other contributor.

The broadcaster states that *Liveline* is the only forum on air for the views of ordinary listeners and needs to be seen as part of an overall balance in programming from RTÉ Radio. The views expressed on the *Liveline* programmes in question reflect the level of calls expressing particular views on each of the days on which the situation in Gaza was discussed. Over the two days it was a varied discussion on a very complex political situation – which is the style of the *Liveline* programme.

Response to BAI:

RTÉ states that the editorial purpose and remit of *Liveline* is to reflect the views of callers on the topic discussed. The programme actively solicits a diversity of opinions, as indicated by the presenter's call for contributions to this programme: *"I'm interested in getting a range of voices in here"* – followed by his again giving the programme's phone number.

The broadcaster states that the programme does not approach or solicit individuals or organisations to participate but impartially reflects the opinions of those who contact the programme, as it did in both editions of *Liveline* on 22nd and 23rd July. The broadcaster states that, again, this is understood by and meets the expectations of listeners.

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The broadcaster states that Section 39(1)(b) of the Broadcasting Act 2009 provides that “two or more related broadcasts may be considered as a whole, if the broadcasts are transmitted within a reasonable period of each other.” RTÉ submits that the *Liveline* programmes of 22nd and 23rd July were transmitted within a reasonable period of each other; that they were clearly related to each other, including by the presenter’s on-air cross-references; and that therefore they should be considered as a whole.

The broadcaster states that in the context of that consideration, a review of the broadcasts and of the response from the producer will indicate that the related broadcasts reflected impartially the views of callers, including those of a representative of the Embassy of Israel and the nuanced and in some cases pacifist views of those who, though critical of IDF actions and Israeli government policy, were critical also of military action by Hamas.

The broadcaster states that while the response of *Liveline* to the initial complaint referred to coverage of the Gaza conflict on *Morning Ireland*, RTÉ does not claim that any coverage on that programme is a related broadcast within the meaning of section 39(1)(b) of the Broadcasting Act 2009 and, therefore, does not offer any coverage on *Morning Ireland* to be considered as a whole alongside the *Liveline* broadcasts of 22nd and 23rd July. This response solely addresses the complaint in respect of *Liveline* and does not therefore address the complainant’s analysis of the *Morning Ireland* interviews of 21st and 22nd July with the Palestinian and Israeli ambassadors respectively.

RTÉ state that without prejudice to consideration of the two broadcasts as related, it should be noted that the skilful presentation of the discussion on each day, considered in its own terms, was a model of impartiality and fairness, in terms of tonally impartial questioning which drew out and challenged the perspectives of callers. The presentation was also accurate and informed on the circumstances in which the conversations were conducted. RTÉ believe that consideration of the broadcasts will also make it clear that the presenter did not express any personal views, particularly such that a partisan position was advocated.

The broadcaster states that examples of the presenter’s facilitation of the expression of contributors’ opinions, sometimes by forceful questioning, and his reflection of the views of those who choose not to participate in this broadcast (where their voices would have been welcomed in line with the programme’s editorial brief described above) included:

- questioning the dissemination of images of the dead and mutilated (much of which is done by pro-Palestinian activists);
- noting that 2,000 rockets had been fired into Israel by Hamas in the preceding two weeks;
- proposing to two pro-Palestinian callers that “It takes both sides to say ‘stop’”;
- challenging the use of the term ‘genocide’, in a context where terms such as ‘murderous’ might express a point of view, but where ‘genocide’ has a very specific meaning and of which Israel has not been accused in any international legal forum;
- asking a pro-Palestinian caller if “Hamas must take some responsibility for the situation”;

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- inviting a pro-Israeli caller to explain how his views had changed on the topic;
- putting to the representative of the Embassy of Israel a definition of genocide which might apply to actions by Israel and allowing him the opportunity to reply;
- similarly putting to the Embassy representative the accusation of other callers that Gaza is “under siege” by Israel and facilitating his response;
- assisting the Embassy representative to recall a point he wished to make;
- asking a pro-Palestinian caller, “Do you believe that anybody [is] justified in the taking of a single Israeli life by the firing of rockets?”

The broadcaster states that the complaint alleges a conflict of interest on the part of the presenter under Rule 26 of the Code, referring particularly to the participation of the presenter in two public events, in 2002 and 2013.

The broadcaster states that in September of 2002 the presenter appeared on a panel of journalists at an event organised by the Ireland-Palestinian Solidarity campaign. His contribution was to talk about his work in The Middle East and the unique challenges it presented. Indeed, the presenter recalls a certain amount of hostility from the audience to his contribution, in particular his insistence that journalists had a duty to report from within Israel just as much as from within the occupied/ disputed/Palestinian territories. His attendance was authorised by the then Editor of Current Affairs, RTÉ Radio 1.

On 11th April 2013, the presenter conducted a public interview with the Israeli born, pro-Palestinian activist, Miko Peled. Mr. Peled had written a book about being born into the family of one of the military architects of the Six-Day War but had gradually made a transition to supporting the Palestinian campaign for self determination. During the course of the interview, the presenter challenged Mr. Peled robustly on the ethics and effectiveness of the Boycott, Divestment and Sanctions campaign he was promoting. The presenter’s facilitation of this interview was authorised by the current Head of RTÉ Radio 1.

The broadcaster states that the presenter’s engagement with both meetings was an entirely legitimate aspect of his journalistic pursuit in terms of facilitating public debate, something which would be encouraged by RTÉ, hence the authorisation of his participation on both occasions. RTÉ states that had any conflict of interest arisen, his participation would not have been authorised, nor could his participation in these events as a professional journalist be reasonably perceived as calling into question the fairness, objectivity or impartiality of his presenting of the items which are the subject of complaint.

Decision of the Compliance Committee: Reject (Unanimous):

The Committee has considered the broadcast and the submissions from the broadcaster and the complainant. Following its review of the material, the Committee has decided to reject the complaint. In reaching this decision, the Committee has regard to the Broadcasting Act 2009, Sections 48(1)(a)(fairness, objectivity and impartiality in current affairs) and the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rules 1, 2, 3, 17, 22 and 26).

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In this regard:

- The Committee noted that the format of the programme is one in which discussion is generated by callers to the programme. The focus and interests of the callers will accordingly inform the focus and emphasis of the programme. While this does not remove the need to ensure fairness, objectivity and impartiality, the audience's expectations and the format of a programme are relevant contextual factors that must be taken into account by the Compliance Committee when adjudicating on a complaint. The Committee may also have regard to whether there are related broadcasts relevant to the fulfilling the requirements of the Broadcasting Act and related codes, since more than one programme may be taken into account in reaching a determination on a complaint.
- In this context, the Committee had regard to both factors when determining the complaint in hand and accordingly the Committee considered the broadcasts of the *Liveline* aired on the 22nd and 23rd of July to be related programmes.
- Having had regard to the content of both programmes, it was the view of the Committee that a broad range of views were aired by contributors on the topic of the then ongoing conflict in Gaza, which was the focus of the discussion. The Committee found that both programmes afforded callers and contributors the opportunity to critique the actions of Hamas, the State of Israel and the actions of both and of their respective military personnel. The undisputed impact on civilians of the conflict, in both jurisdictions, was also examined in detail.
- While noting that contributions were at times robust and heavily critical of the military action of the State of Israel and the civilian deaths arising from that intervention, the programme also fully afforded the opportunity of contributors to outline the view that the situation arose as a result of the actions of Hamas, which would have been avoidable had Hamas not directed missiles at the civilian population in Israel.

The Committee also noted that while the complainant provided detailed timings of the airtime afforded to comments from individuals supporting various positions with regard to the issue at hand, it was clear that the requirements of fairness, objectivity and impartiality, as defined by the Code, are not necessarily achieved quantitatively. There is no requirement on broadcasters to allocate airtime in such a context on any strictly mathematically proportional basis.

Further, the Committee also found no evidence to indicate a conflict of interest on the part of the presenter or that such a conflict of interest was evident in his presentation of the programmes in question.

- In view of the above, it was the Committee's opinion that the broadcasts did not infringe the requirements of the *Broadcasting Act 2009* or *BAI Code of Fairness, Objectivity or Impartiality in News and Current Affairs* in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. D. J. O'Sullivan

Ref. No. 110/14

Station:

RTÉ Radio 1

Programme:

Drivetime

Date:

3rd September 2014

Complaint Summary:

Mr. O'Sullivan's complaint is submitted under the 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 4.8, Section 48(1)(b) (harm and offence), the *BAI Code of Programme Standards*: section 3.5 (factual programming).

The complaint refers to an interview with a Channel 4 Chief News Correspondent on the imprisonment and subsequent release of the parents of Ashya King following their decision to bring their very ill son to Spain for treatment.

The complainant believes this report was unfair to Mr. King and provided a consistently negative representation of the King couple throughout the interview which amounted to a lack of fairness, objectivity and impartiality. By way of example, the complainant refers to a quote from the Channel 4 News Correspondent: *"Brett King has something of a track record now of making dramatic statements to camera in order to spin his case...if what he said this afternoon is completely untrue, and it is untrue, you have to ask yourself what else has he and his sons been saying which may also be untrue"*. The complainant states that these words meant Mr. King's views were in fact other than those expressed by him and the complainant states that the presenter should have, but did not, challenge such assertions as made by the News Correspondence about the reliability of Mr. King.

The complainant claims there are mitigating circumstances that argue for Mr. King's lack of clarity and outlines some of these in his complaint to the broadcaster. Primarily, this refers to the confusion over details of a ward of court proceedings involving Mr. King's son Ashya. The complainant believes it was reasonable for Mr. King to be uninformed and confused about the matter as he had just spend three harrowing days in solitary confinement in a prison cell hundreds of kilometres away and then drove that considerable distance to Malaga following his release. The complainant states that he was clearly unaware of the detailed provision of the UK court order.

Broadcaster's Response:

Initial response to complainant:

RTÉ states that there was no attempt on their part to damage the characters of Nagheme and Brett King. The broadcaster states that at the start of the interview a clip of Nagheme King was played in which she explained her clear distress whilst in prison in Madrid.

The broadcaster states that the reporter from Channel 4 stated to the programme presenter that questions had to be answered as to why this situation had happened, specifically the separation of the child in a hospital in Malaga from his imprisoned parents in Madrid. He also queried the reasoning for imprisoning the parents and why no other measure could be reached.

The broadcaster states that the programme presenter stressed that in the UK his parents were by his side the whole time whereas now in Spain he was on his own. She also raised the impact that this will ultimately have on the child and the circumstances that led to the whole situation.

Response to BAI:

RTÉ states that the interview with Channel 4 Chief News Correspondent on the subject of that day's events surrounding the release from prison in Madrid of the parents of Ashya King was conducted in a fair, objective and impartial manner by the presenter of *Drivetime*.

The broadcaster states that the item began with an excerpt from an interview with the mother of Ashya King, Naghmeh King, in which she spoke of her distress whilst in prison in Madrid. The broadcaster states that the presenter pointed out that the little boy had spent the last few days in a foreign hospital without the comfort of his parents by his side – and that we had been told his mother was by his side whilst he was receiving treatment in the UK – and she enquired as to the impact this must be having on him.

The broadcaster states that the News Correspondent referred to the importance of the family being reunited as soon as possible and also to the statement of a Southampton Hospital doctor in respect of the parents' actions, impartially reflecting the differing perspectives on those actions. He referred again to the paramount importance of the child being taken care of in hospital. The broadcaster states that the presenter raised the question of complicated issues related to rights and responsibilities and asked, on behalf of listeners, for the News Correspondent's view on how this family came to be in Spain and the child's parents to be in prison.

The broadcaster states that the News Correspondent expressed the view that the cause lay in the breakdown of communications between the parents and the hospital – the responsibility for which he could not attribute to either party. He went on to say that given the risk posed to the life of the sick child by the parents' actions, and the fact that the police could act only on the information in that respect given to them by the hospital, the State had no option but to intervene in order to secure for the child the care he needed.

The broadcaster states that the News Correspondent then raised the questions of why the parents were taken to Madrid, hundreds of miles from their son, and why they were held in prison. He asked if the matter could not have been dealt with in Malaga, with Ashya King's parents having access to their child.

The broadcaster states that during the interview, the News Correspondent, speaking about Mr. King's claim that if he tried to see his son he would be arrested, said: *"It's a very odd thing to say"*. Not only did the British courts go out of their way in the court order which still stands and makes Ashya a ward of court there is no restriction on access by the parents whatsoever. Indeed the British judicial system yesterday said *"We only want one thing which is to get these people together. I think this is highly significant. Brett King has something of a track record now of making dramatic statements to camera in order to spin this case. Now if what he said this afternoon is completely untrue and it is untrue you have to ask yourself what else have he and his sons been saying which may also be untrue?"*

Broadcasting Complaint Decisions

The broadcaster states that the News Correspondent was accurate when he said that Mr. King's assertion was not true. His objective and impartial editorial commentary on Mr King's statement was based on the fact – to which he referred – that the order of the Family Division of the High Court of Justice in London made on the previous day, 2nd September included:

And upon the Court expressing the view that it is in the interests of Ashya to be reunited with the 1st and 2nd Respondents [Naghmeh and Brett King] as soon as possible.

The broadcaster states that the News Correspondent was accurate also in his account of Mr. King's statements on 3rd September outside the hospital in Malaga before visiting his son.

As reported in *The Irish Times* of 3rd September:

The reunion initially appeared to be in doubt when Mr. King claimed he would be barred from visiting the child after he was made a ward of court, but it was established that those proceedings do not stop the couple seeing him.

The broadcaster states that the News Correspondent's account of Mr. King's statements was entirely based on fact and was impartial comment on the discrepancy between the reality of the court order and Mr. King's characterisation of it as preventing access to his child. The broadcaster states that he drew also, as an impartial journalist who had been covering the events, on his knowledge of Mr. King's statements and use of language in interviews. There was in his comment no reflection on Mr. King's general character or any other breach of Rule 3.5 and his account of this and other matters was editorially justified and sustainable on a matter of considerable public interest and importance.

The broadcaster states that in both the interviewing of the presenter and the responses of the informed journalist, this item dealt impartially and objectively with a complex and highly emotional topic, conveying fairly a range of perspectives, including those of the parents, of the hospital and of the UK police and courts. In that context, the questions of the presenter reflected views of parties not involved in the interview; and the item led with the excerpt from an interview with Naghmeh King, articulating strongly her experience as one of the parents involved.

Decision of the Compliance Committee: Reject (Unanimous)

The Committee has considered the broadcast and the submissions from the complainant and the broadcaster. Following a review of the material, the Committee has decided to reject the complaint. In reaching this decision, the Committee had regard to the 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 4.8, Section 48(1)(b)(harm and offence) and the *BAI Code of Programme Standards*: section 3.5 (factual programming).

Broadcasting Complaint Decisions

In this regard:

- The Committee considered the interview as a whole and noted that the contribution from the news correspondent addressed a broad range of issues arising from the case of Ashya King, his illness and the decisions of his family and the legal, judicial and policing bodies in the UK.
- The Committee noted that the contribution of the news correspondent included an analysis of the actions of all parties involved in this news story. The Committee found that this analysis was factual in that it described the facts of the situation involving the King family and the UK authorities, how the situation had come to be and the current status of the King parents, their son and the actions and attitude of the UK authorities to the decision of the King family to take their son to Spain. This analysis was critical of the impact of the actions and decisions of all the parties and the Committee was of the view that a critical analysis and the proffering of the professional expert opinion of a news correspondent is not *prima facie* evidence of unfairness.

The Committee noted that this analysis was even-handed and impartial and while some elements of the news correspondent's contributions were critical of the statements made by Mr. King, it did not single him out for particular criticism but rather analysed his comments in the context of the story as a whole. The Committee also noted that the item as a whole included extracts of an interview with Ms. King.

- While noting that the complainant did not agree with the views of the news correspondent, the Committee, having regard to the above considerations, it was satisfied that the content did not infringe the Broadcasting Act 2009, the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* or the *BAI Code of Programme Standards* in the manner specified by the complainant. Accordingly, the complaint has been rejected.

RESOLVED BY THE EXECUTIVE COMPLAINTS FORUM

Complaint made by: Mr. Alan Curran

Ref. No. 121/14

Station:

RTÉ Radio 1

Programme:

Drivetime

Date:

9th September 2014

Complaint Summary:

Mr. Curran's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs).

The complainant states that an interview between the programme presenter and Professor John Sweeney of N.U.I. Maynooth was not fair, objective or impartial. The complainant further states that it is his opinion that:-

- The introduction to the item and the approach to questioning by the presenter was not fair, objective or impartial;
- The programme only included an interview with Professor John Sweeney, who believes in human-induced global warming and climate change;
- The programme did not reflect, either via the questioning by the presenter or via a contribution from another interviewee, the views of those who do not agree with the positions stated by Professor Sweeney or that of the Inter-governmental Panel on Climate Change (IPCC);
- The presenter did not ask any 'hard questions' thus allowing Professor Sweeney to promote his views and the views of the IPCC on the matter of global warming and climate change without challenge.

For these reasons, the complaint argues that the item did not meet the requirements of the Broadcasting Act, 2009.

Broadcaster's Response:

Initial response to complainant:

RTÉ states the interview was on the topic of a World Meteorological Organisation (WMO) report on an increase in levels of carbon dioxide. The interview was designed to draw out in the public interest the details and context of this report. The interview was handled in an editorially independent, impartial and accurate manner in relation to the topic of the WMO report. The broadcaster states that it was not presented as a discussion on the fundamental topic of climate change, nor would it have been expected by listeners to be such a debate.

RTÉ points out that the information provided by the complainant and the issues highlighted range widely beyond the broadcast in question and includes a considerable amount of material not directly related to the broadcast or to the topic of the WMO report. For example, it refers to the President of the Gaelic Athletic Association speaking on a completely unrelated topic.

Response to BAI:

RTÉ states this *Drivetime* item arose in response to the World Meteorological Organisation's (WMO) annual Greenhouse Gas Bulletin, which showed that a surge in atmospheric carbon dioxide saw levels of greenhouse gases reach record levels in 2013.

The broadcaster states that the interview was introduced and contextualised as follows:

"A surge in atmospheric CO2 saw levels of greenhouse gases reach record levels in 2013 according to new figures. Concentrations of carbon dioxide in the atmosphere between 2012 and 2013 grew at their fastest rate since 1984. The World Meteorological Organisation says that it highlights the need for a global climate treaty. For his response to the new figures, I'm joined by Professor John Sweeney, climatologist with NUI Maynooth."

The broadcaster states that the interview explored in the interests of listeners Professor Sweeney's authoritative and informed view of the significance of the rise in these scientifically established figures for carbon dioxide. The interview was not presented as, nor would it have been expected by the listener to be, a debate on the existence or otherwise of global warming. The broadcaster states that the discussion entailed a factual outline of the WMO report and of the actions under discussion by governments and international organisations. The broadcaster states that Professor Sweeney spoke of the necessity to address the consequences of the rise in carbon dioxide levels and the tension between national self-interest and global welfare. The broadcaster states that he also outlined the potential repercussions of a failure to resolve these tensions. He did not espouse any particular policy approach which might have given rise to a topic requiring debate.

The broadcaster states that the September 2013 report of the United Nations Intergovernmental Panel on Climate Change concluded with 95% certainty that human activity was contributing to climate change.

The report states:

"Human influence on the climate system is clear. This is evident from the increasing greenhouse gas concentrations in the atmosphere, positive radiative forcing, observed warming, and understanding of the climate system."

The broadcaster states that the Minister for Agriculture, Mr. Simon Coveney T.D., wrote in the *Irish Examiner* as recently as Monday 27th October 2014: *"Globally and at EU level, we face the twin challenges of increasing food production to meet the demands of nine billion people in 2050, and keeping global temperature rises below 2 degrees centigrade over pre-industrial levels."*

It is the view of RTÉ that impartial and objective journalism does not require that overwhelming scientific fact is challenged on every occasion on which a published report on such facts is given coverage. To do so would be to give hugely disproportionate standing to a tiny minority opinion which rejects such evidence-based scientific findings.

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Similarly, for example, the existence of a miniscule number of people who deny historical facts, such as the extermination programme of The Third Reich or the 2012 shootings at Sandy Hook Elementary School in the United States, does not mean that impartial, fair and objective discussion of those topics requires the inclusion of their views.

Decision of the Executive Complaints Forum

When considering the complaint, the members of the Forum reviewed the broadcast and the submissions of the complainant and the broadcaster. The Forum also had regard to Sections 48(1)(a) *fairness, objectivity and impartiality in current affairs*.

The Forum noted that the complainant raised various concerns regarding an interview with the climatologist, Professor John Sweeney. The basis of the discussion was the publication of the World Meteorological Organisation's (WMO) report on greenhouse gas emissions. It was the view of the complainant that this discussion failed to be fair, objective and impartial.

The members noted that Professor Sweeney was invited on to the programme to share his informed viewpoint on the topic being discussed. Members noted that the programme included a factual outline of the findings of the WMO and although the Forum acknowledged that the discussion did venture into the broader issue of climate change, it was not a debate on whether or not climate change is happening and, therefore, there was no requirement for an alternative viewpoint to be brought into a largely factual discussion about the scientific findings of the WMO.

While noting the requirement on broadcasters to discuss current affairs issues in a fair, objective and impartial manner, the Forum also took into account that any discussion will be informed and guided by established facts and the wider context of a given area of debate. In this regard, the Forum considered it reasonable, given the wide consensus in the scientific community that climate change is occurring, and can be attributed to human activity, that the programme makers took this position as a given that did not require to be challenged during a discussion on factual findings of the WMO.

The members also considered the complainant's belief that the presenter displayed a lack of fairness, objectivity and impartiality in the introduction and in the approach to questioning, but the Forum found that no issues arose in respect of the introduction or the line of questioning, which were considered by the Forum to be appropriate to the discussion at hand.

The Forum are of the view that the topic was discussed in a fair and transparent manner and that there was no call for a harder line of questioning as the contributor was discussing a factual matter and his contribution was based on fact rather than opinion. The Forum also noted that the framing and scope of this discussion was an editorial decision for the broadcaster. It is not the role of the BAI to make a determination on editorial decisions, only to consider the content of the broadcast as a whole.

In view of the above, the complaint did not raise potential issues that warranted further investigation and accordingly, the Forum deemed the matter resolved.

Broadcasting Complaint Decisions

Complaint made by: Mr. D.J. O'Sullivan

Ref. No. 123/14

Station:

RTÉ Radio 1

Programme:

Promo for 'Morning Ireland'

Date:

1st September 2014

Complaint Summary:

Mr. O'Sullivan's complaint is submitted under the Broadcasting Act 2009, section 48(1)(a) and the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* - Rules 8, 9; section 48(1)(b) Harm and Offence, *Code of Programme Standards* - sections 2.2; 3.4.2; 3.5.1 and 3.5.2

The complainant states his complaint relates to a promotion for *Morning Ireland* broadcast during RTÉ Radio 1's *Drivetime* programme. The complainant states that the item was very brief but that in his opinion, the promotion represented the Gaza situation as being Israel's fault and that it could be solved if only Israel would stop the bombing.

With reference to where Gazans could seek shelter from the ongoing conflict with Israel, the complainant claims that during the brief item, the presenter stated that "*they have nowhere to go*". The complainant states that if the presenter's assertion is true, then this particular part of the Israel Protective Edge operation is a war crime. Having listened to the original interview on 22nd July (from which the extract was taken), the complainant states that it is his opinion that this item is taken out of context in the promo and does not fairly represent the actual interview. The complainant states that it is his view that this is a statement of the presenter's opinion.

The complainant states that in the context of the original programme of 22nd July (while questioning the Israeli Ambassador), this statement ("*they have nowhere to go*") is perfectly appropriate as under the BAI's news and current affairs code the presenter is supposed to play "devil's advocate" for the people of Gaza, according to the spirit of fairness Rule 8. The complainant states that during the original interview there was someone there to deal with the question, i.e. the Israeli Ambassador. Therefore, he states that the promotion unfairly represents the situation as it does not in his opinion give the proper context.

The complainant states that on the matter of the question of whether the Gazans had "*nowhere to go*", that this is not correct. He states that there was refuge available in UN Schools and notes that (from his review of Google Earth) that there were large open spaces that were not the subject of Israeli bombing on account of what he states was the decision by Hamas to locate their military campaigns in built-up civilian areas.

The complainant states that in the original interview of 22nd July, the Israeli Ambassador was aggressively questioned in a manner that neither the Palestinian Ambassador nor the Hamas representatives were treated in their interviews. However, he states that the editing of the promotional item was unfair to the Israeli Ambassador. The complainant states that the effect of the promotion was to show the Ambassador and his country in bad light and he considers the promotion to be an anti-Semitic attack given that the Ambassador is Jewish and his country is a Jewish state.

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Broadcaster's Response:

Initial response to complainant:

RTÉ state that the wording in the promotion was as follows:

Presenter: *'can you understand people's concerns that you're asking people to leave, in a crowded area where they are continuing to being bombed, there's no place for them to escape'*

Ambassador Modai: *'What is the solution?'*

Presenter: *'stop bombing them'*

RTÉ states that an objective replay of the exact exchange reflects the way the interview actually transpired; the Ambassador picking his words carefully and the presenter framing his questions carefully. RTÉ claim that contrary to the claim regarding the presenter's tone, it was calmness personified as was the Ambassador's reply. That is what made it such compelling radio.

The broadcaster states that the exchange between the Presenter and the Ambassador as used in the promotion was exactly as broadcast. It reflects the tone and content of the whole interview.

The broadcaster also notes that the complainant also alleged that the presenter showed personal bias by putting it to the Ambassador that the Gazans have nowhere to escape to when Hamas and the Israelis are fighting. The broadcaster states that the complainant claimed (from his review of Google Earth) that there were plenty of open spaces inside the enclave, where the Gazans could seek shelter. The broadcaster states that the fact is there are not plenty of such refuges. The Israelis proved this themselves when, two days after an Israeli government spokesperson told *Morning Ireland* that the beach was a safe refuge, Palestinian boys playing on that beach were killed by Israeli fire. The broadcaster states that the observation by the Presenter that Gazans have nowhere to escape to in time of war is a statement of fact and not an indication of personal opinion or bias.

Finally, the broadcaster totally rejects the complainant's comment that the content was anti-Semitic.

Response to BAI:

RTÉ notes that the complainant specifically indicates that he has no complaint in relation to the original interview of 22nd July with Ambassador Modai. The broadcaster states that the excerpt used in the informational announcement which is the subject of complaint is as follows:

Presenter: *"Can you understand people's concerns that you're asking people to leave, in a crowded area where they are continuing to being bombed, there's no place for them to escape?"*

(Pause)

Ambassador Modai: *"What is the solution?"*

Presenter: *"Stop bombing them."*

The broadcaster states that, as can be heard in the audio file of the full original interview, the excerpt was used precisely as first broadcast, with no internal editing whatsoever. As can also be heard, the excerpt was an accurate reflection of the interview as a whole, a properly challenging and occasionally tense discussion, calmly conducted by both presenter and interviewee, the interviewee choosing his words carefully, prepared to leave seconds of silence while he considered his reply. The broadcaster states that there was no distortion of the context or meaning of the original interview; the excerpt accurately reflected what the complainant described as "the critical questioning" of the Ambassador, to which he has no objection. The excerpt is prefaced by the voiceover statement:

"Morning Ireland, with interviews that matter."

The broadcaster states that the excerpt is then used as an example of *"interviews that matter,"* in this case on the situation in Gaza the leading international news topic of the time, illustrating the capacity of the programme to deliver topical coverage of significance. The informational announcement promoted *Morning Ireland* and was not on the subject of Israel or Israeli government policy or actions; it also included an excerpt from an interview about the late Albert Reynolds.

The broadcaster states that, reflecting the original interview, the excerpt used in the informational announcement was entirely concerned with the actions and policy of the Israeli military and government. As can be heard, there was at no point in the original interview or the excerpt any reference to the Jewish faith or its adherents or to Jews as a group. RTÉ asserts most strongly that nothing in the interview from which the excerpt was taken or in the use of the excerpt was in breach of Rules 3.4.2 or 3.5.1 of the *BAI Code of Programme Standards*. If this was accepted it would make impossible the questioning on actions and policy of a spokesperson for any state in which a majority of the inhabitants were members of a particular religious or cultural group.

The broadcaster states that the complainant claims that the excerpt *"unfairly presented a simplistic solution"*. RTÉ rejects this. In response to the Ambassador's question, the presenter offered, in his professional role, one of the ways in which it has been suggested the deaths of Palestinian civilians could have been addressed by the Government of Israel. This was an appropriate challenge, in the public interest, to a representative of that government. Again, RTÉ notes that the complainant has no objection to this *"critical questioning."*

RTÉ notes a number of assertions by the complainant in relation to coverage of the conflict this year in Gaza. In almost ninety years of broadcasting, RTÉ states it has covered a great number of international conflicts, conducted properly challenging interviews with those involved and, when reporting on casualties, never accepted without attribution the figures given by any side in the conflict.

Broadcasting Complaint Decisions

RTE notes that the complainant also appears to believe that RTÉ has a role other than the journalistic one in relation to conflicts such as that between Hamas and the Israel Defence Force. He offers his research from Google Earth and appears to suggest that RTÉ should use these findings in some way. He suggests also that RTÉ programme staff and the *Morning Ireland* presenter hold personal views on the conflict: the presenter's critical questioning expressed no personal views whatsoever; the interview excerpt was used to illustrate the programme's influential coverage; and the reply to the original complaint properly defended the programme's journalistic integrity.

Decision of the Executive Complaints Forum

When considering the complaint, the members of the Forum reviewed the broadcast and the submissions of the complainant and the broadcaster. The complainant had submitted this complaint under the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* and the *Code of Programme Standards*. However, as there is no requirement for promos to be fair, objective and impartial the complaint was considered only under sections 2.2; 3.4.2; 3.5.1 and 3.5.2 of the *Code of Programme Standards*.

The Forum noted the complaint referred to a promo for *Morning Ireland* which included a clip from an earlier programme in which the Israeli Ambassador to Ireland was interviewed in relation to the ongoing situation in Gaza. The text for the promo was as follows:

Presenter: *'can you understand people's concerns that you're asking people to leave, in a crowded area where they are continuing to being bombed, there's no place for them to escape'*

Ambassador Modai: *'What is the solution?'*

Presenter: *'stop bombing them'*

The complainant believes that the editing of the interview for use as a promo presented an unfair view of the situation in Gaza and represented the Ambassador and his country unfairly. The complainant states that the basis of his complaint is that this item was anti-Semitic and unfair.

The Forum found that this was an informational announcement which is meant to capture the attention of the listeners to heighten their awareness of the subject matters covered in such programmes. The Forum believe that listeners would be familiar with such promos and the editing of this item would not have led the listener to form an unfair view either of the situation in Gaza or in relation to the Israeli Ambassador and his country. The Forum was of the view that the purpose of the item was to draw the audience's attention to the serious issues regularly discussed on the *Morning Ireland* programmes in general and to attract audiences. The Forum found that the promo did not in any way come across as anti-Semitic or unfair to the Ambassador and his country.

Having taken these factors into account, the Forum was of the view that nothing in the promo indicated that it was contrary to the principles of the Codes as suggested by the complainant.

The complaint did not raise potential issues that warranted further investigation and accordingly, the Forum considered the matter resolved.

Broadcasting Complaint Decisions

Complaint made by: Mr. Chris Battenti

Ref. No. 127/14

Station:

RTÉ One

Programme:

Eastenders

Date:

6th October 2014

Complaint Summary:

Mr. Battenti's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b) harm and offence; *Code of Programme Standards* - sections 2.2.1; 3.2.1 and 3.2.2.

The complainant objects to the screening of a rape scene before the watershed in this episode of *Eastenders* and claims it was a very poor decision taken by the broadcaster. The complainant believes that the announcement before the programme which included phrases '*emotions run high*' and '*dire consequences*' did not give adequate warning that within the storyline there was a rape scene. The complainant states that although the pre-watershed programme carries a 'parental supervision' certificate, the complainant asks how parents are supposed to govern this if they do not know the content of the episode. Furthermore, the complainant does not accept the implied argument by the broadcaster that because *Eastenders* is shown simultaneously on the BBC that it must be okay to broadcast on RTÉ.

Broadcaster's Response:

Initial response to complainant:

RTÉ state that *Eastenders* is designed for a wide audience but has always covered current and social issues and has had a regular number of strong storylines over the years which require reflection on behalf of parents as to whether they should permit their children watch the show.

RTÉ state that programming pre-6pm should be suitable for children to watch alone. Programmes broadcast between 6pm and 9pm is for family viewing, however, there may be elements of storylines where parents need to exercise due care. Programming post-9pm is for adult viewing. RTÉ states that it also has a classification system which appears on screen at the top of each programme. In this case, it was a 'PS' which means 'Parental Supervisions'. The broadcaster also states that they ran the following announcement at the top of the programme:

"Emotions run high now as Linda tries to help Dean grapple with his mental trauma of feeling unwanted, with dire consequences – the programme is audio described – it's Eastenders".

RTÉ also states that the following announcement was made over the end credits:

"If you have been affected by issues raised in this episode of Eastenders please see RTÉ Aertel page 701."

Response to BAI:

RTÉ state that the pre-watershed soap *Eastenders* has been on air in Britain and Ireland for almost thirty years and is known to its audience and beyond for consistently dealing with current – and frequently difficult – social issues. The series has had a regular number of strong storylines over the years, which require reflection on the behalf of parents as to whether they should allow their children to watch the programme. Each episode is transmitted simultaneously with the BBC.

The broadcaster states that, notwithstanding the programme's well-known identity, due care for the audience in relation to each individual episode is handled comprehensively and carefully. Every episode is viewed by RTÉ and an assessment made in respect of the measures required to inform the audience about that particular programme.

The broadcaster states that the assessment of the episode of 6th October 2014 resulted in an onscreen classification of 'PS', which appeared at the beginning of the programme, indicating Parental Supervision and clearly inviting parents or guardians to consider restricting children's access.

The broadcaster also states that viewing also resulted in an announcement at the beginning of the programme which purposely included phrases such as 'emotions run high' and 'dire consequences'. It read as follows:

Emotions run high now as Linda tries to help Dean grapple with his mental trauma of feeling unwanted, with dire consequences – this programme is audio described –it's Eastenders

The broadcaster states that, being aware of the potential impact of the programme on viewers, it was followed by the announcement over the end credits that:

If you have been affected by issues raised in this episode of Eastenders please see RTE Aertel page 701.

The information on Aertel directed viewers to appropriate help lines.

RTÉ believe that the taking of the above measures respected Principle 2.2.1 of the Code.

RTÉ also assert that viewing of the episode in the context of Rules 3.2.1 and 3.2.2 of the Code will establish that the scripting and direction of the programme showed sensitivity to the audience and observed pre-watershed restraints. The scripting and direction of the scenes in question was thoughtfully and responsibly conscious of their impact on viewers. It was not sudden or unexpected but the culmination of a dramatic build-up onscreen and the outcome of the perpetrator's clearly depicted emotional and mental volatility. The assault itself was not depicted explicitly but implied, the emphasis being on its aftermath and its consequences for the victim. Had children been permitted by their parents or guardians to watch the episode, they would not have viewed a depiction of sexual conduct or detailed scenes of a sexual nature.

Broadcasting Complaint Decisions

RTÉ claim that this storyline was not untypical of *Eastenders* or of its characters; indeed, sexual assault has been a theme on two previous occasions, in 1988 and in 2004. The broadcaster believes that the action of the episode of 06.10.14 will not have been unexpected to viewers who have any acquaintance with the development of story and characters over the series, and in particular with the troubled character of 'Dean', the perpetrator. Neither will they have viewed it as inappropriate to a series known for its dealing on occasion with darker themes of adult life including murder and other criminal behaviour.

Decision of the Executive Complaints Forum

When considering the complaint, the members of the Forum reviewed the broadcast, the submissions of the complainant and the broadcaster. The Forum also had regard to section 48(1)(b) *harm and offence*, *Code of Programme Standards* section 2.2.1; 3.2.1 and 3.2.2.

The Forum noted that the complaint referred to a scene in which one of the characters sexually assaults another character. The complainant states that he objects to the screening of a rape scene before the watershed and believes the announcement before the programme and the "parental supervision" certificate were inadequate.

The Forum noted that it is a requirement for broadcasters to show due care to its listeners and viewers by putting in place measures which will minimise the potential for offence and harm. In addition to this general requirement, this principle is given effect by the requirement to provide audience information and guidance and the requirement to have particular regard when broadcasting programme material with which an individual audience member may identify.

The Forum found that *Eastenders* regularly deals with difficult issues that may affect sections of the audience in their everyday lives. On viewing the footage, the Forum was of the view that the scene referred to by the complainant was more implicit than explicit. Although it was clear that the female was being sexually assaulted, the act of rape was not shown.

The Forum noted that the introduction to the episode did provide a warning to viewers as follows:

"Emotions run high now as Linda tries to help Dean grapple with his mental health trauma of feeling unwanted, with dire consequences".

The broadcaster also used the on-screen classification 'PS' which alerts viewers to the need for parental supervision for the upcoming episode. This classification usually indicates a programme aimed at a mature audience, and invites parents or guardians to consider restricting children's access. The Forum was of the view, having considered the content as broadcast that the notification was sufficient to meet the minimum needs of the *Code of Programme Standards*. However, the Forum was also of the view that greater prominence of the classification 'PS' may have been beneficial to some viewers of this episode and this should be taken into account when broadcasting programmes containing scenes of sexual assault or rape.

In the overall context, the Forum was of the view that on balance the complaint did not raise issues that required further consideration and, accordingly, was deemed resolved.

Broadcasting Complaint Decisions

Complaint made by: Mr. Pat Waine

Ref. No. 128/14

Station:

RTÉ Radio 1

Programme:

'Morning Ireland'

Date:

30th September 2014

Complaint Summary:

Mr. Waine's complaint is submitted under the Broadcasting Act 2009, section 48(1)(a) and the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* - Rules 4.1, 4.2, 4.17 and 4.19.

The complainant objects to the use of the term "Free Water" by the programme presenter of this programme and he states that there was never such a thing as "Free Water". The complainant states that by using this term the programme presenter gave the impression that water was free and nobody had to pay for it up until now, with the introduction of water charges. The complainant maintains that water was paid for in general taxation. The complainant believes the use of these words by RTÉ, feeds into a Government spin that "*we get nothing for nothing*".

Broadcaster's Response:

Initial response to complainant:

RTÉ state that they endeavour to ensure that their headlines and other editorial material, while often written under pressure, are accurate, fair and complete. However, RTÉ accept, as pointed out by the complainant, there has always been a cost associated with the provision of water.

Response to BAI:

RTÉ state that when introducing the item on water charges, the presenter said "*Today is the end of free water*".

The broadcaster states that in the response to the original complaint on behalf of RTÉ by the Programme Editor of the *Six-One News*, in which a similar reference was made and which was the subject of separate complaint to RTÉ by the complainant, it was clearly accepted that the use of the term '*free water*' is not correct.

The broadcaster states that, while not necessarily technically correct, it is commonplace to refer to a product or service for which, at the point of use, there is (or is claimed to be) no charge as being 'free'. The broadcaster states that the great majority of listeners will have understood the reference in this everyday sense and not as an assertion that there was no cost for the water supply to the public purse and therefore to taxpayers. They will not, therefore, have been misled.

The broadcaster states that the colloquial understanding of a term does not necessarily justify its use by an RTÉ journalist. Nonetheless, it is RTÉ's view that the use of the term was not of such egregious inaccuracy as to warrant being found in breach of broadcasting legislation or regulatory codes. RTÉ also points out that the complainant's initial complaint was welcomed, acknowledged as valid and acted-upon.

Broadcasting Complaint Decisions

Decision of the Executive Complaints Forum

When considering the complaint, the members of the Forum reviewed the broadcast and the submissions of the complainant and the broadcaster. The Forum also had regard to Sections 48(1)(a) and the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs— Rules 4.1, 4.2, 4.17 and 4.19*

The Forum noted that the complaint refers to the use of the term “free water” by the presenter when introducing an item on water charges. The complainant believes this gives the impression that water was free and nobody had to pay for it up until now. The complainant maintains that water was paid for in general taxation. He further states that the use of these words feeds into Government spin that “*we get nothing for nothing*”.

The Forum was of the view that the use of the term “*free water*” while inaccurate, was not misleading as audiences would have understood that water is paid for from general taxation and that the use of the term in the programme was made in the context of the forthcoming introduction of water charges.. It was also noted that the broadcaster accepted that the use of this term is not technically correct. The Forum found that the term was used in relation to the fact that up until now the use of water did not necessitate the metering or invoicing directly to the consumer for the service, unlike other utilities such as electricity and gas. The Forum believes that listeners to *Morning Ireland* would have understood the presenter’s meaning when he used the term “free water”.

Having considered the submissions by the complainant and the broadcaster and listened to the promotion footage, the Forum was of the view that, in general, the listener would not have been misled in the manner claimed by the complainant.

The complaint did not raise potential issues that warranted further investigation and accordingly, the Forum deemed the matter resolved.

Broadcasting Complaint Decisions

Complaint made by: Mr. Alan Curran

Ref. No. 129/14

Station:

RTÉ Radio One

Programme:

Six One News

Date:

1st September 2014

Complaint Summary:

Mr. Curran's complaint is submitted under the Broadcasting Act 2009, section 48(1)(a) and 39(1)(a), 42(2)(a) both covered under *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* - Rule 4.1.

The complainant states that this programme item was used to support and promote what he describes as the highly controversial Gardasil immunisation programme. He states that this was evident via the failure to criticise the immunisation programme, the failure to give parents informed consent by mentioning adverse effects and the failure to air any opposing view to the HSE/Government approved position.

The complainant states that the item reported that the reduction from three doses to two doses of the vaccine this year was because "*it has been proven to be as effective in young girls.*" The complainant claims that this statement is untrue and biased as it conveyed complete acceptance of the HSE's position and ignored what he states is the mounting evidence against its safety and effectiveness. The complainant states that the broadcaster failed in all their reports over time, to give equitable and proportionate airtime to the legitimate concerns about this vaccine immunisation programme, and others, held by a growing number of whistle-blowing medical practitioners, journalists, researchers, public officials and affected members of the public worldwide.

Broadcaster's Response:

Initial response to complainant:

RTÉ state that the 25 second item to which this complaint refers, reported on figures released by the Health Service Executive (HSE) for the uptake of cervical cancer vaccination. It reported also on the change in the vaccination programme from three doses to two, which in the view of the vaccination programme's promoters is equally effective. This news report contained no discussion whatsoever of the efficacy or otherwise of vaccination against cervical cancer. The complaint therefore does not raise issue which would indicate a possible breach in respect of RTÉ Guidelines or the BAI codes or broadcast legislation.

Response to BAI:

RTÉ state that the 25-second news item reported on figures released by the Health Service Executive (HSE) for the uptake of cervical cancer vaccination. It reported also on the change in the vaccination programme from three doses to two, which in the view of the vaccination programme's promoters is equally effective.

The broadcaster states that this news report was not presented to viewers as a discussion of the efficacy or otherwise of vaccination against cervical cancer, nor did it contain any such discussion.

Broadcasting Complaint Decisions

RTÉ notes the editorial freedom of broadcasters to decide on news stories to be covered and the angle to be taken on such stories. In that context, and as can be seen from a reading of the attached HSE press release and viewing of the news item, the report was objective and impartial and there was no expression whatsoever of the broadcaster's views.

Decision of the Executive Complaints Forum

When considering the complaint, the members of the Forum reviewed the broadcast and the submissions of the complainant and the broadcaster. The Forum also had regard to Sections 48(1)(a), *Code of Fairness, Objectivity and Impartiality Rule 4.1*.

The Forum noted that the complaint referred to the HSE programme of cervical cancer vaccination of schoolgirls. The complainant believes that the item as reported promoted and supported what he described as the highly controversial Gardasil immunisation programme. The complainant believes the report should have included criticism of the vaccination programme, its adverse effects together with opposing views to that of the HSE/Government approved position.

The Forum found that that this was a factual report on the take-up of the cervical cancer vaccine and the changes from three doses to two. This was not a discussion item but a straight forward report stating the facts surrounding the vaccine, therefore no opposing views on the effects or otherwise of the vaccination were required.

The members considered the report as a whole and were of the view that, having regard to the focus of the item, no issues arose which would indicate that the subject matter was dealt with in a way which did not fulfil the requirements for news content to be objective and impartial.

The complaint did not raise potential issues that warranted further investigation and accordingly, the Forum deemed the matter resolved.

