



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

Broadcasting Authority of Ireland

Broadcasting Complaint Decisions

June 2013

Broadcasting Complaint Decisions

Broadcasting Complaint Decisions

Under the Broadcasting Act, 2009, viewers and listeners can complain about broadcasting content which they believe is not in keeping with the 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 policy 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 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 complaint decisions reached by the BAI are detailed in this document.

At its meeting held in May 2013, the Compliance Committee upheld two complaints and rejected four. Eight complaints were resolved by the Executive Complaint Forum at meetings held in April and May 2013.

Contents

Upheld by BAI Compliance Committee.....Page 4

29/13 – RTÉ Radio One – Liveline – 5th March 2013

31/13 - RTÉ Radio One – Liveline – 5th March 2013

Rejected by BAI Compliance Committee.....Page 10

10/12 – RTÉ One – Prime Time – 2nd October 2012

16/13 – RTÉ One – Prime Time – 15th November 2013

18/13 – RTÉ Radio One – Liveline – 4th February 2013

28/13 – RTÉ One – The Late Late Show – 1st February 2013

Resolved at Executive Complaints Forum.....Page 24

12/13 - Highland Radio – The Morning Show – 10th January 2013

14/13 – TV3 – The Morning Show – 8th February 2013

17/13 – 2FM – Tubridy – 6th February 2013

19/13 – RTÉ One – Love/Hate – 2nd December 2012

20/13 – RTÉ One – Love/Hate – 9th December 2012

21/13 – RTÉ One – Love/Hate – 16th December 2012

22/13 – RTÉ One - Coal, Frankenstein and Mirror: An Irish Nativity - 17th December 2012

24/13 – RTÉ One - Mrs. Brown's Boys – 25th December 2012

Upheld by BAI Compliance Committee

Complaint made by: Mr. Jim McGuinness

Ref. No. 29/13

Station:
RTÉ Radio 1

Programme:
Liveline

Date:
5 March 2013

Complaint Summary:

Mr. McGuinness' complaint is submitted under the Broadcasting Act 2009, 48(1)(a)(fairness, objectivity and impartiality in current affairs). The complaint relates to an article written in '*Alive!*' a Catholic monthly newspaper, by the editor, Fr. Brian McKeivitt. The complainant claims that the presenter, Joe Duffy, harassed the priest on air and that the line-up of callers abused the priest. The complainant believes that RTÉ abused its position as the national broadcaster. He further believes that this was a well organised ambush on Fr. McKeivitt by a professional organisation with a large listenership designed to discredit a voice that challenges their own ethos.

Broadcaster's Response:

Initial response to complainant:

RTÉ states that a listener to the show 'Joan' felt an article in the newspaper linking Taoiseach Enda Kenny to Herod was 'particularly nasty'. She felt it was 'anonymous abuse and a form of bullying' of the democratically elected leader of the country who she believes is doing his best in very difficult circumstances. The programme invited Fr. Brian McKeivitt on the show to defend the magazine, he agreed to join in the discussion.

There were several callers who supported Joan's views but there were also several callers in support of Fr. Brian McKeivitt. RTÉ states it was a robust discussion which is the essence of Liveline. The presenter is there to facilitate this process and on occasion to challenge statements made by contributors. If he thinks comments are unfair he will intervene to challenge or cut off the comments. RTÉ believes that the discussion was handled in a fair and impartial manner.

Response to BAI:

RTÉ states *Alive!* describes itself as a 16-page, free, monthly Catholic newspaper distributed throughout Ireland and presenting news, features and comment from a Catholic perspective. It claims a circulation of 380,000 copies per month, left in churches or delivered door-to-door in parishes. The Managing Editor is Fr. Brian McKeivitt OP.

In the March edition of *Alive!* in a regular feature titled 'Editor's Musings', an article appeared under the headline 'Why Herod comes to mind'. A good part of the discussion on the programme concerned the precise wording and meaning of the article. Indeed, a significant amount of the presenter's interaction with Fr. McKeivitt was occasioned by his attempts to establish exactly what it was that the latter was stating in his article about the Taoiseach. For example, Fr. McKeivitt said that he was not likening the Taoiseach to King Herod but exploring the reasons why people might make such a connection, one of the points which the presenter sought to clarify.

Broadcasting Complaint Decisions

The discussion resulted from a phone call to the programme by a listener, Joan, who, as she said on-air, thought that the connection in the article between King Herod (linked in most people's minds with the biblical Slaughter of the Innocents) and the Taoiseach was "very nasty". During the programme she said that *Alive!* was "an excellent magazine" but that the article "undermines its position."

The discussion was joined by Fr. McKevitt. He asserted that the article did not say that the Taoiseach is like King Herod but that it outlined why people might think of Herod in the present context. The context appeared to be, and this was later confirmed by Fr. McKevitt, that of the public discussion of legislation on termination of pregnancy.

While all callers expressed themselves with conviction, the participants' delivery varied in tone; for example, Fr. McKevitt was quiet-voiced while unwavering and eloquent in his defence of his socio-religious views, of the article which prompted the discussion and of the editorial stance of the newspaper. It would not be accurate, however, to say that Fr. McKevitt did not have the opportunity to rebut criticisms by others. Nor can it be assumed that listeners would not be positively influenced by a quiet delivery; a participant's manner does not in itself result in imbalanced programming.

The presenter put challenging questions to Fr. McKevitt – and also gave him every opportunity to respond and rebut. It is a presenter's journalistic role to explore, question and sometimes challenge on behalf of the audience.

Related topics were introduced by both participants and presenter, contextualising the discussion of the newspaper, prompted by Joan's call about the article addressing an association between the Taoiseach and King Herod.

Early in the programme, Fr McKevitt raised the topic of abortion legislation, saying that the legalisation of the killing of unborn children would be appalling. Later, he asked a contributor if he was opposed to abortion from the time of conception. And at one point he raised the issue of RTÉ coverage of the resignation of Pope Benedict XVI when asserting that the role of *Alive!* was in part to offer views not expressed in other media.

Overall, RTÉ states that the programme offered a balanced and fair discussion of a topic on which passionate convictions are held, both in numbers of participants on different sides of the argument as well as the nature of the views expressed, in which the presenter played an appropriate professional role.

Decision of the Compliance Committee:

The Committee considered the broadcast, the submissions from both the broadcaster and the complainant. Following consideration of this material the Committee decided to **uphold** the complaint.

Broadcasting Complaint Decisions

In reaching this decision, the Committee took into account the following:

- The principal topic of the programme focused on the question of whether or not a newspaper column in the Catholic newspaper, *Alive!*, had stated that An Taoiseach, Enda Kenny, could be likened pejoratively with King Herod in the context of the ongoing debate on abortion and the appropriate legislative response to the X Case and the decision of the European Courts in respect of A, B and C v Ireland. It was the Committee's view that such a comparison was a serious matter and a robust and challenging examination of this issue was an appropriate topic of discussion for a programme such as RTÉ's Liveline.
- The editor of the newspaper and the author of the column in question, Fr. Brian McKeivitt, participated throughout the programme. As such, he was provided with the opportunity to outline his views on the article and the interpretation of its meaning and to rebut views of callers to the programme and the views of the presenter.
- Notwithstanding this, the Committee noted that, in comparison to the treatment of contributions made by those callers alleging that Fr. McKeivitt's article had inappropriately compared An Taoiseach with King Herod, the programme presenter interrupted the contribution from Fr. McKeivitt on a regular basis. In addition, the callers made strong, and in some instances, lengthy uninterrupted comments in respect of the perceived intentions and motives of Fr. McKeivitt and the *Alive!* publication. It was the Committee's view that listeners would have benefited had such contributions been examined and challenged by the presenter.
- The Committee also noted the difference in the treatment of contributors who supported the views of Fr. McKeivitt and/or the *Alive!* publication. In particular, the Committee noted that such contributors were interrupted and challenged by the presenter in a manner that other callers were not.
- The Committee also noted that in some instances, the issues highlighted in the programme were those that were raised by the programme presenter alone rather than callers to the programme (contrary to the audience driven format that normally prevails) and also that a number of issues discussed in the programme by the presenter and contributors were not related to the *Alive!* article under discussion. Such issues included an alleged libel against an RTÉ producer in a previous edition of *Alive!*, the support and role of the Dominican Order in the publication of the *Alive!* and the coverage by *Alive!* about, and the familiarity of Fr. McKeivitt with, priests from the Dominican Order convicted of child sexual abuse.
- While the Committee agreed that the article in question merited a serious, challenging and robust discussion and that Fr. McKeivitt was a very able contributor equipped to engage in a discussion of this nature, it was also its view that on balance, and for the reasons set out above, the manner in which the discussion was handled was not in the interests of listeners and lacked fairness, objectivity and impartiality, contrary to the requirements of the Broadcasting Act.

Broadcasting Complaint Decisions

Complaint made by: Mr. John Fanning

Ref. No. 31/13

Station:
RTÉ Radio 1

Programme:
Liveline

Date:
5 March 2013

Complaint Summary:

Mr. Fanning's complaint is submitted under the Broadcasting Act 2009, 48(1)(a)(fairness, objectivity and impartiality in current affairs). The complaint relates to a comment from a listener 'Joan' who remarked on an article written in a Catholic newspaper called '*Alive!*'. The complainant states that the article, written by the editor Fr. McKevitt, compared the Taoiseach Enda Kenny to King Herod. The complainant states that Fr. McKevitt also featured in the programme and, the complainant claims, he answered Joan's question in great detail several times.

The complainant maintains that what started off as a very ordinary comment regarding the '*Alive!*' newspaper, degenerated into a character assassination by radio conducted and orchestrated by the programme presenter, Mr. Joe Duffy. The complainant states that he lacked objectivity, impartiality and respect for Fr. McKevitt. On several occasions having already been given a very detailed answer from Fr. McKevitt, the complainant states Joe Duffy continued to repeat and ask the same question/s.

The complainant claims that the listeners that supported Fr. McKevitt received very limited air time compared to his critics. The presenter, Joe Duffy, was also an active participant in this attack on Fr. McKevitt's good standing as a priest and as editor of '*Alive!*'.

Broadcaster's Response:

Initial response to complainant:

RTÉ states that a listener to the show 'Joan' felt an article in the newspaper linking Taoiseach Enda Kenny to Herod was 'particularly nasty'. She felt it was 'anonymous abuse and a form of bullying' of the democratically elected leader of the country who she believes is doing his best in very difficult circumstances. The programme invited Fr. Brian McKevitt on the show to defend the magazine; he agreed to join in the discussion.

There were several callers who supported Joan's views but there were also several callers in support of Fr. Brian McKevitt. RTÉ states it was a robust discussion which is the essence of Liveline. The presenter is there to facilitate this process and on occasion to challenge statements made by contributors. If he thinks comments are unfair he will intervene to challenge or cut off the comments.

Response to BAI:

RTÉ states *Alive!* describes itself as a 16-page, free, monthly Catholic newspaper distributed throughout Ireland and presenting news, features and comment from a Catholic perspective. It claims a circulation of **380,000** copies per month, left in churches or delivered door-to-door in parishes. The Managing Editor is Fr. Brian McKevitt OP.

In the March edition of *Alive!* in a regular feature titled 'Editor's Musings', an article appeared under the headline 'Why Herod comes to mind'. A good part of the discussion on the programme concerned the precise wording and meaning of the article.

Broadcasting Complaint Decisions

Indeed, a significant amount of the presenter's interaction with Fr. McKevitt was occasioned by his attempts to establish exactly what it was that the latter was stating in his article about the Taoiseach. For example, Fr. McKevitt said that he was not likening the Taoiseach to King Herod but exploring the reasons why people might make such a connection, one of the points which the presenter sought to clarify.

The discussion resulted from a phone call to the programme by a listener, Joan, who, as she said on-air, thought that the connection in the article between King Herod (linked in most people's minds with the biblical Slaughter of the Innocents) and the Taoiseach was "very nasty". During the programme she said that *Alive!* was "an excellent magazine" but that the article "undermines its position."

The discussion was joined by Fr. McKevitt. He asserted that the article did not say that the Taoiseach is like King Herod but that it outlined why people might think of Herod in the present context. The context appeared to be, and this was later confirmed by Fr. McKevitt, that of the public discussion of legislation on termination of pregnancy.

While all callers expressed themselves with conviction, the participants' delivery varied in tone; for example, Fr. McKevitt was quiet-voiced while unwavering and eloquent in his defence of his socio-religious views, of the article which prompted the discussion and of the editorial stance of the newspaper. It would not be accurate, however, to say that Fr. McKevitt did not have the opportunity to rebut criticisms by Tommy and others. Nor can it be assumed that listeners would not be positively influenced by a quiet delivery; a participant's manner does not in itself result in imbalanced programming.

It is true to say that the presenter put challenging questions to Fr. McKevitt – and also gave him every opportunity to respond and rebut. The complainant asserts that the presenter "was an active participant in the attack on Fr. McKevitt's good standing as a priest and as Editor of *Alive!*" RTÉ asserts strongly that the presenter's questions to Fr. McKevitt were an appropriate line of enquiry in terms of establishing the editorial context of the publication and the philosophy behind the article which prompted the discussion. Furthermore, his questions were not in any way related to Fr. McKevitt's reputation as a priest and insofar as they related to his function as Editor of *Alive!* they were entirely and properly concerned with his publicly stated editorial point of view. There was absolutely no intrusion whatsoever on Fr McKevitt's privacy as an individual. Related topics were introduced by both participants and presenter, contextualising the discussion of the newspaper, prompted by Joan's call about the article's association of the Taoiseach and King Herod.

Overall, RTÉ states that the programme offered a balanced and fair discussion of a topic on which passionate convictions are held, both in numbers of participants on different sides of the argument as well as the nature of the views expressed, in which the presenter played an appropriate professional role.

Decision of the Compliance Committee:

The Committee considered the broadcast, the submissions from both the broadcaster and the complainant. Following consideration of this material the Committee decided to **uphold** the complaint.

Broadcasting Complaint Decisions

In reaching this decision, the Committee took into account the following:

- The principal topic of the programme focused on the question of whether or not a newspaper column in the Catholic newspaper, *Alive!*, had stated that An Taoiseach, Enda Kenny, could be likened pejoratively with King Herod in the context of the ongoing debate on abortion and the appropriate legislative response to the X Case and the decision of the European Courts in respect of A, B and C v Ireland. It was the Committee's view that such a comparison was a serious matter and a robust and challenging examination of this issue was an appropriate topic of discussion for a programme such as RTÉ's *Liveline*.
- The editor of the newspaper and the author of the column in question, Fr. Brian McKeivitt, participated throughout the programme. As such, he was provided with the opportunity to outline his views on the article and the interpretation of its meaning and to rebut views of callers to the programme and the views of the presenter.
- Notwithstanding this, the Committee noted that, in comparison to the treatment of contributions made by those callers alleging that Fr. McKeivitt's article had inappropriately compared An Taoiseach with King Herod, the programme presenter interrupted the contribution from Fr. McKeivitt on a regular basis. In addition, the callers made strong, and in some instances, lengthy uninterrupted comments in respect of the perceived intentions and motives of Fr. McKeivitt and the *Alive!* publication. It was the Committee's view that listeners would have benefited had such contributions been examined and challenged by the presenter.
- The Committee also noted the difference in the treatment of contributors who supported the views of Fr. McKeivitt and/or the *Alive!* publication. In particular, the Committee noted that such contributors were interrupted and challenged by the presenter in a manner that other callers were not.
- The Committee also noted that in some instances, the issues highlighted in the programme were those that were raised by the programme presenter alone rather than callers to the programme (contrary to the audience driven format that normally prevails) and also that a number of issues discussed in the programme by the presenter and contributors were not related to the *Alive!* article under discussion. Such issues included an alleged libel against an RTÉ producer in a previous edition of *Alive!*, the support and role of the Dominican Order in the publication of the *Alive!* and the coverage by *Alive!* about, and the familiarity of Fr. McKeivitt with, priests from the Dominican Order convicted of child sexual abuse.
- While the Committee agreed that the article in question merited a serious, challenging and robust discussion and that Fr. McKeivitt was a very able contributor equipped to engage in a discussion of this nature, it was also its view that on balance, and for the reasons set out above, the manner in which the discussion was handled was not in the interests of listeners and lacked fairness, objectivity and impartiality, contrary to the requirements of the Broadcasting Act.

Rejected by BAI Compliance Committee

Complaint made by: Mr. Hugh O'Rourke

Ref. No. 104/12

Station:
RTÉ One

Programme:
Prime Time

Date:
2 October 2012

Complaint Summary:

Mr. O'Rourke's complaint is submitted under the Broadcasting Act 2009, 48(1)(a)(fairness, objectivity and impartiality in current affairs). The complainant states that he found the presenter, Richard Crowley's introduction to the item concerning the decision of the European Court of Human Rights in the case of A, B and C v Ireland, not to be a fair summary of the findings of the Court which therefore led to bias in favour of the provision of abortion services in Ireland. The complainant notes that the presenter stated the following:

"Next to the divisive topic of abortion and the latest expert group on how the government might respond to the European Court of Human Rights' finding that Ireland had failed to properly implement a proper constitutional right to abortion where a woman's life is at risk."

The complaint claims that the actual finding was:

"In such circumstances, the Court rejects the Government's argument that the third applicant failed to exhaust domestic remedies. It also concludes that the authorities failed to comply with their positive obligation to secure to the third applicant effective respect for her private life by reason of the absence of any implementing legislative or regulatory regime providing an accessible and effective procedure by which the third applicant could have established whether she qualified for a lawful abortion in Ireland in accordance with Article 40.3.3 of the Constitution."

The complainant also states that the introduction and the exclusive interviewing of "Hard Case" contributors constitute a lack of balance.

Broadcaster's Response:

Initial response to complainant:

RTÉ states that they believe the introduction by Richard Crowley was a fair representation of the European Court of Human Rights finding in December 2010 which relates to a previous Supreme Court ruling. RTÉ does not believe that this was exclusive interviewing of "Hard Case" contributors during the report that followed; rather there was a variety of very real personal testimonies with different outcomes and perspectives.

Response to BAI:

Further to their response above RTÉ states that they utterly reject Mr. O'Rourke's claim that the programme failed to be objective and impartial. Firstly, RTÉ believes Mr. Crowley's introduction was broadly accurate and was a reasonable summary of a complex finding designed to make accessible to the lay person a seventy page legal judgment.

Secondly, RTÉ believes that the item has to be judged as a whole and a single sentence should not be taken out of context of the whole item. The brief studio introduction was followed by a report by Katie Hannon which balanced two conflicting views about whether or not there is any requirement resulting from the X case and the ECHR judgment requiring the availability of abortion in Ireland. The report provided an accurate account of the 1861 Offences against the Person Act, the 1983 Abortion Referendum and the subsequent 1992 X Case Supreme Court interpretation.

RTÉ state that the report included a number of case studies to highlight the complex issues involved in this debate. The first case examined was that of Michelle Harte, who was suffering from advanced cancer when she discovered she was pregnant. It meant the trial drug she was taking to prolong her life had to be immediately withdrawn for legal and ethical reasons and could not be re-administered until she was no longer pregnant. An ethics committee at the hospital she was attending ruled that she could not have an abortion in that hospital as her life was not in immediate danger. She travelled to the UK to have her pregnancy terminated in order to resume her treatment. She subsequently died. This story was balanced with contributions from Niamh Uí Bhriain of the Life Institute who warned against confusing abortion which, she said, is the deliberate and intentional destruction of unborn human life, with life saving medical treatments, which she said take place in Ireland all the time. She also pointed to the Medical Council Guidelines which state that if a life threatening condition arises in pregnancy doctors must give women all treatment in order to save their lives and if doctors fail to do so they will be found guilty of professional misconduct.

The other case studies in the report were Arlette Lyons and Aideen Kelly who were both told that their unborn babies had conditions which would not allow independent life outside the womb. Arlette Lyons travelled to the UK to have her pregnancy terminated. She spoke of how traumatic this journey was for her and for other women in her position. Aideen Kelly opted to continue with her pregnancy. Her son eventually died in the womb at eight months. Ms Lyons spoke very positively about the experience of giving birth to her stillborn son and holding him in her arms.

The report also featured one TD utterly opposed to the introduction of any form of abortion in Ireland and another TD who wished to see legislative provision of limited abortion services in Ireland to deal with those cases where there is a threat to the life of the mother.

This report was followed by a studio debate between Niall Behan, Chief Executive Officer of the Irish Family Planning Association and Caroline Simons, Legal Advisor to the Pro-Life Campaign. RTÉ claim that the debate was chaired in a completely neutral manner by Richard Crowley who avoided any editorialising or expression of his own views.

Broadcasting Complaint Decisions

Decision of the Compliance Committee:

The Committee considered the broadcast, the submissions from both the broadcaster and the complainant. Following consideration of this material the Committee decided to **reject** the complaint. In reaching this decision, the Committee took into account the following:

- The Committee considered both the introduction and the presentation of personal experiences (in the pre-recorded element) in the context of the programme as a whole.
- The Committee noted that the information presented in the programme ranged from statements of fact and experience to those that were personal and/or professional opinion. Such a range of information is common in news and current affairs programming, particularly where the matter is of public controversy and debate.
- In this regard, the Committee found upon its review of the programme that the programme as a whole addressed a range of issues including, an examination of the Irish legislation governing the legal circumstances where a pregnancy may or may not be lawfully terminated, the personal experiences of people who have had to consider whether or not to terminate pregnancies on medical grounds and the views of individuals and organisations on Irish law and potential changes to this law. In addition, extracts from a report presented to the Irish Government on how to legislate for the X Case (in a context where the European Courts had found against Ireland in A, B and C v Ireland) were presented and discussed.
- Following its review of the programme, it was the Committee's view that the introduction to the programme provided a fair summary of the A, B and C v Ireland decision in the context of programme that was not focused on the detail of the European Court decision itself but rather on the possible measures that the Irish Government might introduce in response to the judgment and the contested views of a range of individuals and groups as to what constitutes an appropriate response to the European Court decision.
- Regarding the interviews with individuals who had made decisions whether or not to terminate pregnancies on medical grounds, the Committee found that the programme presented a range of views, including interviews with women who had decided to terminate their pregnancy and those who decided to give birth knowing that the child would be unlikely to survive. Clearly, the interviews outlined the hard decisions that the women in question had to make in response medical issues arising from their pregnancies. However, the Committee did not agree with the complainant that programme presented 'hard cases' that demonstrated a lack of objectivity or impartiality on the part of the broadcaster. Rather, the Committee was satisfied that the interviews presented a variety of experiences.
- Taking the above into account and having regard to the programme as a whole, the Committee did not agree that the programme lacked fairness, objectivity and impartiality.

Broadcasting Complaint Decisions

Complaint made by: Mr. Raymond Beggan

Ref. No. 16/13

Station:
RTÉ One

Programme:
Prime Time

Date:
15 November 2012

Complaint Summary:

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

The complainant states that the title of this discussion was incorrect and misleading as it proposed to look at the condition ADHD (Attention Deficit Hyperactivity Disorder). The complainant cites the introduction to the programme:

"Tonight Prime Time looks at ADHD. It's a condition which can make people inattentive, hyperactive and highly impulsive. An increasing number of children with these symptoms of ADHD are presenting to mental health services".

In fact, the complainant states that the programme looked at disorders associated with behavioural difficulties.

The complainant states that there is no objective test for ADHD and no physical or chemical abnormality that is defined. The complainant states that diagnosis is based on the subjective opinion of someone regarding the behaviour of another human being. The complainant claims that this principle was used to lock up thousands of women in workhouse based on their "non-compliant" behaviour. According to the complainant, RTÉ failed to make this point clear and did not explain to the viewer what young children are supposed to be 'attentive to'. The complainant queries if young children are necessarily suppose to sit like 'compliant robots' in a classroom or family environment?

The complainant claims that those who held positions contrary to the above were given about two minutes out of 60 to make their points. Therapists which involve non-drugging of children were also given about two minutes to outline their points and were positioned towards the last section of the programme. The complainant further claims that Prime Time misled viewers by titling this programme 'an investigation' into ADHD. The complainant cites the programme where it states: *"Many children with the condition are primarily inattentive and do not have conduct problems but up to half the children diagnosed with ADHD have more than one disorder and they often have associated behavioural difficulties. These children are the focus of our programme"*. The complainant states that the viewer is told in this one sentence that in fact the programme is not primarily about ADHD at all but about 'disorders' associated with 'behavioural' difficulties. The complainant states that it would be very easy for the viewer to miss this point and to believe that all they were viewing was about ADHD.

Broadcasting Complaint Decisions

The complainant further claims that Prime Time made use of fallacious argument techniques to discredit opposing voices of the official ADHD line. Anyone with a contrary view on ADHD was described as a 'sceptic'. The complainant claims that this is a form of 'ad hominem' attack, designed to create the impression that the people voicing these opinions are quacks and are not fully qualified professionals who are judging the issues on hand from what is, in reality, a more objective and clinical viewpoint.

The complainant cites a part of the programme featuring Professor Sami Timimi, who was described as a "leading sceptic" and where it was stated *"other reasons and factor go missing when we go down this narrow model"*; and *"I don't think ADHD can be thought of as a legitimate condition of the brain; we don't just have the evidence to support this"*. Just after the professor made his first points, Prime Time immediately cut to footage of a child cursing at his mother. The complainant believes that this draws the viewer in emotionally, breaking any concentration they may have had on what the Professor was saying mid-way through his point. When the Professor made his final point, Prime Time informed the viewer that *"Scientists believe they may be on the brink of proving the sceptics wrong"*. The complainant states why a 'sceptic' could not be a scientist is unknown. The complainant believes the section of the programme, the 'sceptics' versus the 'scientists' is the most dangerously misleading of all.

The complainant cites another part of the programme where Professor Frodl informed the viewer *"we look into the brain to see brain functions and brain structure and we already see some evidence that there are changes in the brain of people with ADHD"*. *"We can see the changes in the brain"*. The complainant believes that this part of the programme was meant to dispel any lingering doubts a viewer may have about the existence of 'ADHD' as a real and genuine condition. Prime Time pitched this section of the programme as a victory of the scientific evidence over the 'sceptics'. The complainant states the viewer was shown brain scan projections of the subjects of this study who are now adults but who were diagnosed with ADHD in childhood. *"We are following them up now to see how their brain has evolved, how the structure is"*. The complainant believes the real question is if these adults have changes to the structure of their brains, are these changes the result of years of Methylphenidate drug use or are they the result of ADHD?" The viewer was not informed if these subjects have been medicated with drugs with similar properties to cocaine for many years or not. The complainant asks how anyone can speak with certainty on any subject or expect people to accept findings if all underlying factors are not taken into account. He believes that the question is did Professor Frodl factor this drug issue into his findings or not. If he did, why then did Prime Time simply leave it out? If he did not, why did Prime Time not pick him up on this fundamental question?

The complainant further outlines areas of the programme such as the use of the drug Ritalin which was included in the programme but with little or no background context as to the use of it and its associated notoriety. This section ends with a Professor reassuring viewers that after children have gone *"through the various medications"*, *90% of them will eventually respond to one and that it's "the 10% who doesn't respond that's a problem for you"*. There was scant mention of the long term effects of the use of any of these medications. The complainant states that reference here to *"a problem for you"* more or less sums up the entirety of the entity known as 'ADHD'. The *"for you"* here is not a reference to the children but to the adults. A more powerful group of individuals moves in to modify the non-compliant behaviour of a weaker group.

Broadcasting Complaint Decisions

The complainant claims that the thrust of the entire programme was based around one simple premise – ADHD is a condition children are born with. Through interventions which mainly revolve around the administration of various medications by professionals, these children can have a chance to be ‘normal’. The complainant claims that ADHD as a diagnosis, still remains a subjective opinion by one person of another person’s behaviour and nothing in the programme contradicts this. Prime Time is guilty of trying to prove the objectivity of an ADHD diagnosis by using extremely bogus ‘scientific’ evidence provided by Professor Frodl or else omitting the relevant information to suit the premise outlined earlier.

Broadcaster’s Response:

Initial response to complainant:

RTÉ states that it is not correct to state that the programme did not address the debate over whether ADHD is a genuine medical condition or simply a subjective means of describing certain behaviours. Even though ADHD is now very widely accepted as a genuine condition in mainstream medicine, the programme took care to highlight the opposing view and interviewed Professor Timimi who explained his reason for regarding it as a subjective label with no objective scientific basis. Nor is it fair to say that the programme delivered a simplistic message that “the drugs work”. The programme went into great detail on the need to find the correct balance between medication and therapies and include some very strong warnings about the dangers of over-medicating children who are diagnosed with this condition. The programme focussed on children and families who are experiencing severe behavioural difficulties which most experts in the field regard as being very closely associated with ADHD and debated the treatments and services available to such families. Doubtless there are many other aspects of ADHD that could be discussed but it is important in a documentary to develop a clear focus and not try to cover too much ground.

Response to BAI:

RTÉ states that *Prime Time: A Cry for Help* focussed on children and families who are experiencing severe behavioural difficulties which most experts in the field regard as being very closely associated with ADHD and debated the treatments and services available to such families. It did not claim – nor could any hour-long documentary – to be a definitive, completely comprehensive account of such a complex condition. What is most important in terms of the contract with the viewer is to make the documentary’s scope and purpose clear and this was done at the very beginning of the programme.

It was also made clear that there are disorders associated with ADHD, the nature of whose relationship with the condition is still under investigation. Differing views on ADHD, including scepticism of its existence as a legitimate brain condition, were heard. Distinct approaches to treatment, for example, behavioural and clinical, were discussed and the side-effects of medication and dangers of over-medication were referred to, as were parental reservations about a lifetime of medication.

All medical, scientific and other professionals who appeared on the programme were correctly and accurately described.

Mr. Beggan questions the programme's impartiality in not ascribing to excessive television viewing a role in the development of ADHD. Noting that one of the child participants was shown watching a good deal of television, alone and in the company of his mother, studies which indicate that there may be a correlation between very early television viewing and attention problems in later childhood or adolescence – and not necessarily ADHD – are at such an early stage of their investigation of a causal relationship, that to suggest a role of any significance in the development of ADHD would be very premature. And if such a causal relationship was shown to exist, RTÉ Current Affairs would have no hesitation in saying so.

No commercial interests of RTÉ played any part whatsoever in any aspect of the editorial decision-making in relation to this programme. And as indicated in his response to Mr. Beggan by the Managing Editor Current Affairs TV, no members of the production team are affected by any of the issues talked about or are connected in any way to any of the companies or individuals involved. There was no expression whatsoever in the programme of the views of RTÉ or of any of the editorial or production personnel associated with the broadcast.

RTÉ states that *Prime Time: A Cry for Help* was an objective, impartial and fair account of the experiences of children and families who have behaviour disorders related to ADHD, of the debate as to whether ADHD is a genuine medical condition (overwhelmingly the mainstream medical view) – and of the availability and efficacy of the prescription and other therapies for the condition and associated behaviour.

Decision of the Compliance Committee:

The Committee considered the broadcast, the submissions from both the broadcaster and the complainant. Following consideration of this material the Committee decided to **reject** the complaint. In reaching this decision, the Committee took into account the following:

- The Committee noted that while the programme stated that it would examine the issue of ADHD, it clearly stated that while many children who have the condition described as ADHD can lead normal lives, the programme would examine in particular the lives of children that had ADHD and other behavioural disorders and whose lives presented additional challenges for the children affected as well as their parents, teachers and the health services. As such, the Committee was of the view that the audience would have been clear about the content of the programme and did not agree that the programme was presented in the manner articulated by the complainant.
- The Committee also noted that a programme that sets out to address particular issues cannot be considered to lack fairness, objectivity and impartiality simply because it does not address all issues related to a topic or give equal weighting to all aspects of a topic. In this regard, the Committee noted that the programme makers approached the programme on the basis that ADHD is a recognised medical condition and examined this issue on that basis.

While the existence of this condition is contested by the complainant and other parties, the programme was not focused on whether the condition was genuine but rather on the experiences of children and families in dealing with a condition that is classified by the health services and other parties as genuine and where supports and interventions, or the lack thereof, were to be examined.

- Notwithstanding this, the Committee noted that the programme highlighted the views of those who contest that the condition is genuine. The Committee did not agree that the presentation of these views or the description of their views as sceptical was unfair in a context where the condition of ADHD is considered and treated as a genuine diagnosable disorder. Neither did the Committee consider the amount of airtime afforded to demonstrate unfairness, given that the programme was not a discussion as to whether or not the condition exists.
- The Committee noted that the issue of the treatment of children with ADHD and other behavioural disorders were examined in detail. This entailed a review of medical interventions via the use of pharmaceuticals as well as treatments based on behavioural change. In this regard, the programme included a critical assessment of the benefits and side effects of medicating children classified as having ADHD. Accordingly, the Committee did not agree with the complainant's view that the presentation of the role of medication was demonstrative of bias on the part of the programme makers.
- Taking the above into account and having regard to the programme as a whole, the Committee did not agree that the complaint was supported by the content of the programme or that it lacked fairness, objectivity and impartiality.

Broadcasting Complaint Decisions

Complaint made by: Ms. Rachel Muckley

Ref. No. 18/13

Station:
RTÉ Radio 1

Programme:
Liveline

Date:
4 February 2013

Complaint Summary:

Ms. Muckley's complaint is submitted under the Broadcasting Act 2009, 48(1)(a)(fairness, objectivity and impartiality in current affairs) and 48(1)(b)(*Code of Programme Standards: Harm & Offence*: Sections 3.4 persons and groups in society, 3.5 factual programming and 3.8 imitative behaviour). The complaint concerns an edition of RTÉ's Liveline programme that included a discussion on cannabis. The complainant states that her initial complaint stemmed from the following:

- It is her opinion that RTÉ allowed a guest, Ms. Gráinne Kenny, representing Europe Against Drugs (EURAD) to lay claims live-on-air about cannabis without censorship or cessation.
- It is her opinion that the representative of EURAD made, in her opinion, harmful and provably inaccurate claims about the cannabis plant, its uses medically, its legal status in other countries and its users worldwide, as well as illicit users in Ireland. The complainant also states that the representative of EURAD also made other and her opinion more dangerous claims, such as "*cannabis is stronger now than heroin even.*" The complainant states that RTÉ has not corrected any of this misinformation broadcast to the approximately 420,000 listeners to the show.
- It is her opinion that this representative had a conflict of interest as her organisation is funded by legal drug companies. The complainant states that this conflict was evident from her comments about what the complainant cites as the facts of a useful and widely-used natural medicine.
- The complainant believes that RTÉ, as a Public Service broadcaster, should not be a soapbox for what she describes as propaganda. She states that the interview with this guest benefited only the pharmaceutical industry and pandered to a guest, described by the complainant as misinformed.
- The complainant states that both the tone of the programme and the presenter were very biased from the outset. This was apparent in what the complainant claims was the presenter's negative and degrading comments towards specific callers as well as the negative tone of his questions.

The complainant claims that when a person asserts themselves as an authority and is then given credibility as such by RTÉ, what they say is taken into consideration by most rational people and, unfortunately, taken as truth by others who may be otherwise unaware.

Broadcasting Complaint Decisions

The complainant also claims that the representative of EURAD misquoted, on two occasions, Keith Stroup, the founder of non-profit organisation NORML, and that this was facilitated by RTÉ. The complainant claims she has nothing personally to do with this organisation but found it shocking that RTÉ would allow this propaganda.

Broadcaster's Response:

Initial response to complainant:

RTÉ states that it is the essence of *Liveline* that unmediated comment and opinion of ordinary listeners provides insight into what the public think about everyday events and matters. The presenter is there to facilitate this process.

There is much debate about the pros and cons of legalising cannabis. There is also conflicting evidence about many of the effects of cannabis use. Gráinne Kenny holds one set of views and on Monday several of their callers held polar opposite views. Luke Ming Flanagan TD spoke about the need for legislation, other callers spoke about using cannabis and they had one caller who grows his own cannabis for his personal use.

Listeners to *Liveline* expect to hear viewpoints they disagree with on the programme. Listeners use their own judgment to decide if the views expressed are worthy of consideration. In the normal run of *Liveline*, RTÉ would have continued with the discussion over a couple of days but unfortunately other events took over i.e. the Magdalene Laundry report and the Government deal with the ECB so they didn't go back to the subject. RTÉ hopes to return to the discussion at some stage and invited Ms. Muckley to join in the conversation and express her views on air.

Response to BAI:

RTÉ states it is the editorial brief of *Liveline* to host debates which will often include strongly expressed opposing views.

The input of callers to the programme reflected the intensity of the debate about the pros and cons of legalising cannabis, as well as the conflicting evidence about the effects of cannabis use. This is a debate in which research and statistics are quoted extensively to support both sides of the argument. While listeners may have disagreed with the presentation of supporting arguments by speakers with whom they disagreed, there was no infringement of Content Rule 3.5 Factual Programming, through prejudicing respect for human dignity, causing undue distress or offence, reference to age, colour, gender, national or ethnic origin, disability, race, religion or sexual orientation, or by showing disrespect to the dead.

Callers Jackie, Eithne, Joseph, Brian, Claire and Gráinne Kenny, Honorary Vice-President of the organisation Europe Against Drugs (EURAD), spoke fervently in opposition to the legalisation of the drug. Callers Tom, Jim, Douglas, Hans, Mark, Paul and Luke 'Ming' Flanagan TD spoke equally ardently in favour of its legalisation, whether from the point of view of recreational or medical use. The debate was balanced and, furthermore, was handled fairly and objectively by the presenter who showed no preference in his management of the participants, in keeping with Section 48(1)(a) of the Broadcasting Act 2009.

Broadcasting Complaint Decisions

With reference to Content Rule 3.8 Imitative Behaviour, it is incorrect to state as is done in the complaint that Ms Kenny said that “heroin is safer than cannabis.” In relation to a comparison of the two drugs she said (verbatim transcript):

“The cannabis that is on sale today has a very different strength to the cannabis which was used fifty or a hundred years ago. It is now stronger even than heroin; it has more than 15% street potency.”

In saying so, she was reflecting the point of view of, for example, the Dutch Justice Minister Ivo Opstelten who was reported last year as announcing his government’s intention to classify marijuana with a THC content of 15% or more as a Class A drug like heroin and cocaine and bar it from being sold in the country’s cannabis coffee shops. The validity of this view may be debated, on *Liveline* and elsewhere. What is indisputable is that Ms. Kenny did not say the words quoted and that the claim that this long-term campaigner against illegal drug use would promote or support the use of heroin for any reason, including in preference to cannabis, is unfounded and absurd.

With reference to Content Rule 3.4 Persons and Groups in Society, it is true that Ms. Kenny expressed the view that Mr. Flanagan was not elected by the people of Roscommon “to gratify his own needs and those of his drug-using friends”; however, this was not a reference to the National Organisation for the Reform of Marijuana Laws (NORML). When NORML was mentioned later, Ms. Kenny did characterise the organisation as “a group of pot-smoking Americans who are trying to legalise drugs on the back of vulnerable, sick people.” And she did also suggest that cannabis users “go around banging their heads and then they forget to turn up for marches.” In all these comments, she was referring to the activities of the people concerned and not to their identity, not discriminating on the basis of age, gender or any of the other characteristics identified in 3.4.2 of this Content Rule and was making no reference whatsoever to criminal acts and mental health or to religious views.

Decision of the Compliance Committee:

The Committee considered the broadcast, the submissions from both the broadcaster and the complainant. Following consideration of this material the Committee decided to **reject** the complaint. In reaching this decision, the Committee took into account the following:

- The Committee considered the programme as a whole. In this regard, the Committee noted that a wide range of views were presented on the topic of cannabis (a drug prohibited by Irish law), its impact (negative or otherwise) on health and whether it should or should not be legalised or more stringently prohibited.
- The Committee noted that the programme included a range of contributions, other than those of Ms. Gráinne Kenny, including Deputy Luke ‘Ming’ Flanagan who is a noted supporter for legislation to regulate cannabis use. It was the view of the Committee that the contribution of these and other guests meant that the issue under consideration was fairly discussed during the programme as a whole.

Broadcasting Complaint Decisions

- In assessing the complaint, the Committee did not have regard to the funding or otherwise of the organisation with which Ms. Kenny is associated. Contributors to programmes such as Liveline bring a range of perspectives and it is the nature of a programme such as Liveline, and something which audiences expect, that contributors will bring their personal and professional views to bear on the discussion of a topic. What is germane is whether contributors are afforded a fair opportunity to contribute and the presentation of other views to the audience such that fairness, objectivity and impartiality are attained.
- The Committee did not agree with the broadcaster's contention in its response to the complainant that the programme amounted to an unmediated exchange of views between the callers to the programme and the audience listening. Notwithstanding this, the Committee did not agree with the complainant that the presenter of the programme demonstrated a lack of fairness, objectivity and impartiality in the handling of the content. The Committee also found no evidence to substantiate the view of the complainant that the comments in respect of the potency of cannabis or the election of Deputy Flanagan T.D. were in breach of sections 3.4 (Persons and Groups in Society) or 3.8 (imitative behaviour) of the Code of Programme Standards.

Complaint made by: Mr. Seán Casey

Ref. No. 28/13

Station:
RTÉ One

Programme:
The Late Late Show

Date:
1 February 2013

Complaint Summary:

Mr. Casey's complaint is submitted under the Broadcasting Act 2009, 48(1)(a)(fairness, objectivity and impartiality in current affairs). Mr. Casey states that there was a lack of balance in a segment of the show in respect of gay marriage whereby Mr. George Hook was given a full three minutes in which to make an impassioned and emotional argument in favour of gay marriage. The complainant waited to see who would have the 3 minutes to make the counter presentation in favour of the status quo. This never happened. The complainant compares the interview to a two horse race. If one horse is given a 3-minute head start; how can that be said to be a balanced presentation?

Broadcaster's Response:

Initial response to complainant:

RTÉ states that the format of this item, a long established feature over the years, invites guests to 'take the soapbox' and present an argument emphatically on one side or another of a topic of public interest. This provokes a discussion amongst panel and audience which they structured in a balanced manner. Immediately after the soapbox presentation by George Hook, they went to their panel and invited the two members of their three person panel who disagreed with him over three minutes to counter his position. Both of the panellists, Darren Mahon and Wendy Grace, were aware of the structure of the item and knew they would have an opportunity to rebut the arguments after they had been made. The panel was made up of three people, two of whom disagreed with George Hook and one who agreed with him. This was done to ensure that the numbers were balanced. RTÉ also ensured that the same number of contributors from both sides were invited into their studio to take part in the discussion.

Response to BAI:

Further to their response above RTÉ states it is important to make clear that the soapbox orator is not favoured in any way but is merely the person who speaks first, as someone always must; the soapbox is simply a device to support an emphatic opening statement. Certainly, she or he is allowed speak without interruption; however, the same courtesy is allowed to other panellists in their opening statements – the degree to which they take advantage of this is their own responsibility.

On this occasion, the soapbox position was taken by broadcaster George Hook who spoke in favour of gay marriage. Three panellists responded to his views. As planned through the structuring of the panel by the production team, one of the three – Colm O'Gorman, Executive Director of Amnesty International Ireland and himself married (outside Irish jurisdiction) to another gay man with whom he has two children – agreed with Mr Hook, and two disagreed – Darren Mahon, a gay man who does not see gay marriage as desirable, and Wendy Grace who works as a DJ and in marketing and is a speaker with Catholic Comment. In the panel discussion, presenter Pat Kenny ensured that both sides of the argument were allowed space and time to present their arguments.

Broadcasting Complaint Decisions

At the end of the opening statements by Mr. Hook and the panellists, those in favour of gay marriage had spoken for slightly longer (less than a minute) than those against. The presenter then went to the audience in which, apart from the majority who had applied for tickets in the usual way, there were a number of guests who, again, had been selected by the production team to produce a fair discussion. Three people spoke in favour of gay marriage and three against. Returning to the panel for summing-up comments, the presenter went to each of the panellists in turn, ending with Mr. Hook. RTÉ further states that although balanced programming cannot be measured crudely in terms of duration, as the debate closed the five speakers in favour of gay marriage and the five against had spoken for almost equal time.`

Finally, the presenter asked the studio audience for a show of hands on the subject, remarking on their character as “a typical *Late Late Show* audience from around the country.” Asked how they would vote in a referendum to allow gay marriage, of those who showed their hands the overwhelming majority indicated they would vote ‘Yes’. Closing the item, the presenter commented on the apparent similarity of the audience’s views to those revealed by a Millward Brown Lansdowne poll taken in late 2012 which showed that 75 per cent of people would vote ‘Yes’ in a referendum to extend civil marriage to same-sex couples. When Mr. Casey refers in his complaint to ‘the status quo’, he may be referring to the legal position; to judge by the Millward Brown Lansdowne poll and the response of the studio audience, that legal position may not reflect the majority of public opinion. Regardless of that, both sides of the argument were presented in an even-handed manner.

Decision of the Compliance Committee:

The Committee considered the broadcast, the submissions from both the broadcaster and the complainant. Following consideration of this material the Committee decided to **reject** the complaint. In reaching this decision, the Committee took into account the following:

- The ‘soapbox’ item was flagged by the presenter before the item commenced. Accordingly, it was the Committee’s view that audiences were prepared for the style and format of the discussion on ‘gay marriage’ and that the contribution by Mr. Hook would be akin to a speech where the speaker is permitted to advocate a position in an uninterrupted and unchallenged manner. The Committee also noted that the nature of the item was also emphasised by the manner in which it was presented, from behind a podium.
- The ‘soapbox’ was followed by a panel discussion involving proponents in favour of and against ‘gay marriage’. Upon a review of the discussion, the Committee noted that a variety of perspectives were evident on the topic under discussion, both in support of and in opposition to the topic of ‘gay marriage’.
- When considering a complaint of this nature, the Committee will have regard to the totality of the programme or item and will not, in general, consider one element in isolation, unless warranted. Taken as a whole, the Committee did not agree that the ‘soapbox’ element of the discussion conferred an unfair advantage to those contributors in favour of legislating for ‘gay marriage’. Accordingly, the complaint was rejected.

Resolved at Executive Complaints Forum

Complaint made by: Mr. Michael Walker

Ref. No. 12/13

Station:
Highland Radio

Programme:
The Morning Show

Date:
10 January 2013

Complaint Summary:

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

The complainant states that during an interview with Dr. Michael Watts, about his study "Recovery from Mental Illness", he stated that medication for depression is dangerous. However, the presenter did not counter this by advising the listener that people should not come off medication without their doctor's advice. The complainant believes this led to lack of balance in this programme. He subsequently contacted the station to inform them that he had contacted GROW (World Community Mental Health Movement) and they agreed that they would have no difficulty asking Dr. Watts (a previous national co-ordinator of GROW) to engage in another interview, perhaps with another expert on the use of drugs included, to discuss the issue of taking medication for depression. However, the station informed him that nothing was planned in this area in the short term.

Broadcaster's Response:

Initial response to complainant:

Highland Radio states that having listened to the interview in question, the broadcaster is of the opinion that the interview was fair and balanced and it is not necessary to revisit the issue at this time.

Response to BAI:

Highland Radio states that they have nothing more to add to the reply already sent to the complainant in response to his initial complaint. Highland Radio does not believe it breached section 48(1)(a) during the interview between Dr. Watts and the presenter Shaun Doherty.

Decision of Executive Complaint Forum:

The complaint concerns an interview with Dr. Michael Watts who discussed his study on 'Recovery from Mental Health'. The complainant was unhappy with Dr. Watts' view that medication for depression can be dangerous. The Complainant was of the view that the presenter should have challenged and explored these views and in particular warned against people coming off medication without medical or other support and advice.

The Forum was of the view that Dr. Michael Watts is an accredited mental health practitioner and was interviewed on The Morning Show to present his findings on mental health and depression. They were also of the view that this programme element was a health/lifestyle feature and was not deemed to be current affairs content. Dr. Watts claims that his study suggests that a drug free recovery is possible. This remark was balanced by the presenter asking the question "you are not saying to people throw away your anti-depressants for one moment, you're saying we need to look at other options".

Broadcasting Complaint Decisions

The Forum was of the view that the interview was coming from a personal and professional capacity in the case of Dr. Watts. There was also a mix of personal experiences by contributors to the programme.

Having reviewed the programme, the complaint material, the broadcaster's response and the relevant section of the BAI Guidance Document, the Forum agreed that as this was a health / lifestyle feature and therefore the requirement for fairness, objectivity & impartiality in current affairs was not required. The complaint did not warrant further investigation and the Forum deemed the complaint resolved.

Broadcasting Complaint Decisions

Complaint made by: Mr. David Commins

Ref. No. 14/13

Station:

TV3

Programme:

The Morning Show

Date:

8 February 2013

Complaint Summary:

Mr. Commins' complaint is submitted under the Broadcasting Act 2009, Section 48(1)(b)(harm and offence) *Code of Programme Standards* - (sections 2.2. due care and 3.4.2 persons and groups in society)

The complainant states that the presenter, Martin King, made a comment about children's allowance which was offensive to everybody struggling in these austerity driven times. His comment came as he was speaking about a panda and its cub in a zoo. The comment was to the effect that the mother of the panda was 'hung-over' after the previous Children's Allowance night. Mr. Commins found this to be a harmful and unfair comment.

Broadcaster's Response:

Initial response to complainant:

TV3 states that it is well known that people joke about spending children's allowance in the pub. Martin King's comments were intended in a jocose and humorous fashion and were not intended to offend. Nevertheless, TV3 regret that the complainant was offended and have brought this to the attention of the presenter.

Response to BAI:

TV3 states that this material was part of a regular Friday section within 'The Morning Show' called 'Webwatch'. The section is intended to be a light-hearted look at internet-based news stories which are intended to be 'heart warming' and 'feel good' for Friday morning start to the weekend.

In the programme in question, this section was introduced with the statement "*lift the national mood*". The actual images used concerned a baby panda in a zoo that was trying to awaken its mother and the mother was not responding. It was in that context that the reference to children's allowance night was made. The previous and subsequent stories within the same section referred to babies/toddlers reacting to music and also an oncoming train coming into a train section. All of these stories were what is traditionally seen as light and warm hearted.

TV3 would add that the audience for this programme is adult and one that is well able to appreciate and understand this type of humour.

Decision of Executive Complaints Forum:

When considering this complaint the Members of the Forum reviewed the broadcast, the submissions of the complainant and the broadcaster. The Forum also had regard to sections 2.2 due care and 3.4.2 persons and groups in society of the Code of Programme Standards under which Mr. Cummins submitted his complaint.

The complaint relates to a comment made by Martin King when speaking about a panda and its cub in a zoo. The comment was to the effect that the mother of the panda was hung over after the previous Children's Allowance night.

The Forum was of the view that this was a glib remark by Martin King during a light-hearted section of the show that was a normal feature aimed at lifting the mood of the nation by looking at internet sourced videos of a humorous nature. This remark was said during a clip showing a panda cub trying to wake up his mother in a zoo in Japan where the mother is fast asleep. Martin King states “she looks as if she was out on Children’s Allowance night” at which point the other presenter and Caroline Twohig laughed. It was the view of the Forum that while some listeners may have found the comments to be in poor taste, when heard in the context of the light-hearted conversation as a whole, the Forum believed that it could not be reasonably considered to cause undue offence. Further, the Forum took the audience expectation into account when assessing the complaint and was of the view that the off-the-cuff comment made during this segment of the programme would be unlikely to cause harm to regular listeners. Taking into account audience expectation of the programme, the complaint did not warrant further investigation and the Forum deemed the complaint resolved.

Broadcasting Complaint Decisions

Complaint made by: Mr. Colin Patten

Ref. No. 17/13

Station:
2FM

Programme:
Tubridy

Date:
6 February 2013

Complaint Summary:

Mr. Patten's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(b) (*harm and offence*) *Code of Programme Standards* - sections 2.3 protection for children; 3.2 sexual conduct and 3.3.2 coarse and offensive language).

The complainant states while shopping in his local supermarket he heard this programme being transmitted over the sound system and was shocked at the subject matter. The following phrases and keywords were used:

- Sex aid toys; clitoral stimulation; penetration; big gigantic thing to penetrate; orgasm; clitoris;
- Sessions with yourself, how long to bang out an orgasm;
- Double sided vibrator...anal or vaginal sex...gay men;
- Butt plugs for anal sex...can be fist sized to stimulate the prostate gland;
- Big penis... rotating balls; insert shaft of penis;
- Household items to masturbate with; male masturbating toy...choose your vagina to make love to;
- Lubricate your penis to make it slippery; cock ring etc.

The complainant claims there were a few veiled references to seriously deviant sexual behaviour.

The complainant believes this programme not only broke every broadcasting guideline including its own trading terms, but almost certainly broke the criminal law. He further claims that children would certainly have heard this programme which was aired in the morning and broadcast nationally with no consideration for the watershed and as far as the complaint is aware, no warning was given beforehand.

Broadcaster's Response:

Initial response to complainant:

The programme's producer responded to the complaint and explained that Emily, who featured in this programme, is extremely serious about the subject matter and a lot of effort goes into each of her appearances on the show.

The reason the topic was chosen was because the sale of sex toys in Ireland is a multi-million euro business and the texts that came into the programme commenting and looking for more information about the toys seemed to bear that out. The producer states that they try to steer the show through the many different avenues of Irish life and sex is very much a part of that journey.

Response to BAI:

RTÉ states that Section 3.2 Sexual Conduct of the BAI Code of Programme Standards states that:

3.2.1 As a general rule, broadcasters shall have due regard to the appropriateness of, and/or justification for, the inclusion of sexual conduct during programme material.

The *Tubridy* programme on RTÉ 2FM is an informative and entertaining mix of talk, chat, information and fun with music and competitions. The show has a wide remit to provide items of a broad range of interest to listeners from early adulthood through to parenthood and beyond. The target age range of the programme is adults from 20-44 years of age, predominantly female and encompassing a range of adult life stages.

To place this item in the context of the programme's editorial remit, over the three years the series has been on air, the presenter has developed an honest and open conversation with the show's listeners, who regularly reveal to him in the most frank terms intimate parts of their lives. Recent examples include an interview in the wake of the recent Wexford tragedy, another with the father of Nicola Furlong describing his torment, and one with a man who had not had sexual relations with his wife for six months.

RTÉ claims that following that last interview mentioned, the programme was inundated with contact from men and women in a similar position who, though in an otherwise loving partnership, had either no sexual relationship or an unfulfilling one. Realising the significance of this issue to their listeners, when contacted by sexologist Emily Power Smith, who had heard the interview, the programme team responded by inviting her to bring her expertise in sexuality to the topic, so that by honest discussion of the issues involved, listeners could better understand their own experiences and find solutions.

Emily Power Smith has a Masters Degree in Sexology and a Post Graduate Diploma in Art Psychotherapy, with years of experience as a facilitator, educator and trainer. She is a professional member of the World Association of Sexual Health (WAS) and accredited with the Irish Association of Creative Arts Therapists (IACAT) and she adheres to their professional codes of ethics. RTÉ states that to date, there have been five items on *Tubridy* in which Emily Power Smith has discussed, with the appropriate professional frankness, topics including a married couple who had not had a sexual relationship in many years, recommencing sexual relationships after rape, and the importance of communication in a long-term sexual relationship. She has also discussed bisexuality and homosexuality, and topics such as sexuality and disability are planned for upcoming programmes. The programme has received a very significant approving and appreciative response on Facebook, via text and by e-mail, from listeners often asking detailed questions about their sexual relationships which in turn inform the choice and handling of particular topics.

In accordance with this editorial policy, the discussion with Emily Power Smith on the programme of 7 February of the role of sex toys in facilitating sexual pleasure was focussed in a plain-spoken manner on the potential for fulfilment of various devices which she had brought to studio.

Broadcasting Complaint Decisions

RTÉ strongly asserts that, under Section 3.2 Sexual Conduct, the discussion of sexuality in the item under review was both appropriate to and justified by the programme's editorial remit with its consistent focus on personal relationships and by the clear and interactive interest expressed by its listenership in the topic.

Section 3.3 Coarse & Offensive Language of the BAI Code of Programme Standards states that:

3.3.1 As a general rule, broadcasters shall have due regard to the appropriateness of, and/or justification for, the inclusion of coarse and/or offensive language in programming.

3.3.2 Broadcasters shall be alert to, and guard against, the use of coarse and/or offensive language in live programmes.

RTÉ states that the nature of this topic, and of the item complained of, naturally requires the description of actions and, on this occasion, objects which can be the subject of coarse humour or erotic fiction. Neither is the case here. In keeping with the editorial intention of providing a service to listeners, the language used is direct, factual and open. It is not descriptive beyond the minimum required to make clear what is meant. Far from being coarse, it is almost clinical in nature, using medical rather than colloquial terms. What laughter there is is innocent and arises from the presenter's natural embarrassment from time to time, no doubt reflecting a degree of awkwardness in the audience when dealing with the subject. It is important to note that, although sympathetic to his embarrassment, Emily Power Smith does not share it and consistently presents this area of human relationship in a practical, constructive context.

RTÉ asserts very strongly that as a result of the purposeful and expert handling of this subject, both by the sexologist contributor and the editorial team including the presenter, coarse or offensive language is avoided and there is no infringement of Section 3.3 of the Code.

Section 2.3 Protection for Children of the BAI Code of Programme Standards states that with regard to the protection of children when scheduling programme material, particular care shall be taken in the following circumstances:

- i. When scheduling programme material that is broadcast either side of programmes that are likely to be watched or listened to by children,*
- ii. When scheduling programme material during school-run times,*
- iii. When scheduling programme material during school holidays when the viewing and listening patterns of children can change.*

The broadcaster states that both the station management of RTÉ 2fm and the *Tubridy* programme team are aware, not only of their responsibilities under the BAI Code and RTÉ Journalism Guidelines, but indeed of the specific ruling by the Broadcasting Complaints Commission in 2007 that the airing on Today FM at 9.35am of the topic of sex toys was an inappropriate time for such a discussion.

Broadcasting Complaint Decisions

Consequently, *Tubridy* never schedules these items on sexual relationships during school holidays and they are always aired at a time which ensures that the school run is finished, in the case of the item under complaint beginning at 10.21am.

As editorial policy, the nature of the item is also always flagged in advance in keeping with Section 2.2.1 Audience Information and Guidance of the BAI Code which specifies “*use of prior warnings for programme material which has the potential to offend.*” On 7 February, the item complained of was prefaced by this warning from the presenter:

“Emily Power Smith is here, she’s our regular sexologist. She has a big box of toys and they’re sex toys and we are going to get into a big conversation about those in a moment.”

RTÉ claims that this announcement was followed by a commercial break, allowing listeners, or those relaying RTÉ 2fm in their commercial or business establishment, to decide whether or not they wished to listen to – or have their customers or clients listen to – the clearly flagged item.

RTÉ claims that due care was taken both in the protection of children and to ensure that listeners to *Tubridy* are protected from undue offence and from harm.

Decision of Executive Complaint Forum:

The complaint concerns a programme feature that discussed sex toys and was heard by the complainant while shopping in a supermarket. He found the words being used to describe the sex toys to be offensive and were not appropriate for children listening at that time of day.

The Forum considered the broadcast, and the submissions of the complainant and the broadcaster. The Forum noted the complaint concerned a discussion between the presenter and a sex therapist which the complainant found inappropriate and in particular, as it was broadcast in the daytime schedule. In assessing the complaint, the Forum had to have regard to the Code of Programme Standards including sections 2.3 (protection for children) and 3.2 (sexual conduct). The Forum also had to have regard to the context of the content, the type of programme and audience expectation.

The Forum noted the introduction to the discussion by the presenter before the advertising break was, in effect, a pre-broadcast warning. Overall, the Forum found the discussion to be factual and the intention was to inform and not to gratuitously offend. The references were factual descriptions and could not in the context in which they were used, be considered unduly offensive. Further, younger children were highly unlikely to comprehend the discussion. It was also noted that the item was broadcast in the mid-morning of a normal school day and there was no evidence of gratuitous content.

The Forum would acknowledge that the segment is a regular feature on the show and accordingly, regular listeners would be aware that it is not suitable for children. Given the non-gratuitous content of the discussion, the guidance given by the presenter and regular audience expectation, the Forum was of the opinion that the discussion was sufficiently moderate for broadcast. 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. Ronnie Owens

Ref. No. 19/13, 20/13 and 21/13

Station:
RTÉ One

Programme:
Love/Hate

Date:
02 December 2012
09 December 2012
16 December 2012

Complaint Summary:

Mr. Owens' complaints are submitted under the Broadcasting Act 2009, 48(1)(b)(Harm & Offence: Code of Programme Standards – Section 2.1 General Community Standards, 2.2.1 Due Care, 2.4 Assessment, 3.1 Violent Programme Material, 3.2 Sexual Conduct, Coarse & Offensive Language, Persons & Groups in Society, 3.7 Drugs, Alcohol & Solvent Abuse, 3.8 Imitative Behaviour; Law & Order). Mr. Owens states the shameful levels of drug abuse; the damage done, particularly to young people and the associated levels of crime extant in Ireland, must be seriously disturbing to everyone. How can RTÉ, given its public service responsibilities, justify its treatment of the above in the recently broadcast *Love/Hate* series, which was transmitted supposedly as entertainment/drama in a prime slot on Sunday nights? The assault on all legal, social and cultural values is relentless and remorseless. The net effect is promotion of the drugs culture. He states:

- Language is devalued to illiterate status through intensive usage of expletives and banal offensive swearing and race to the bottom plots.
- Relationships are imbued with lying, deceit, mistrust, bullying, bribery and contempt.
- Violence, counter violence, cruelty and fear are gratuitously stitched into every situation.
- All the women are portrayed as servile fools, pawns and puerile slaves and sex objects. Not one woman can assert herself against the crazed greed for unearned drug money by the men around them who have skills only for subversion and criminality.
- The men are always vengeful, self serving, abusive and scheming. None have a job. Respect anywhere is a non-issue. Gun fear rules. High drug profits and drug highs underpin continuous murder plots.
- Core treatment of sexuality is always as shallow, self gratifying, cruel, rapacious, disgusting and vile.
- Economic ideals are reduced always to predatory criminal caricatures.
- Centre stage funding and abuse is from illegal drugs but much violence and other sordid behaviour is precipitated around binge drinking. Smoking is normalised everywhere.

This illiterate shambles is posted with cunning and pretentious advertising dressed up as a warning about language and sexual content, deliberately inserted to increase ratings. The series exploits the culturally vulnerable and is predatory on virtually all counts. As a community activist struggling to deal with the consequences of drug abuse, Mr. Owens is acutely aware that Garda advice to all citizens and particularly the elderly is to keep their doors and windows locked and refuse to open the door to strangers. The citizens are warned to see themselves as 'prisoners' whilst the ever growing criminal class are 'free' to oppress and intimidate. Citizens and citizenship is threatened. The daily RTÉ news bulletins give real time statistics and account of the radically increased drug related violence, robberies, burglaries and murder. 'Society under siege' is for real and being increasingly 'normalised'.

Given this 'system failure' by the state to deal with the 'drugs culture' it is unconscionable of RTÉ (given its *Public Service Broadcasting* remit) to in essence promote this same culture as a 'reality soap' pornographically projected 'in vacuo'.

Broadcasting Complaint Decisions

Zero reference anywhere inside or outside the series is made to the consequences in society for this reality (i.e. ruination of young lives, suicide, hospital queues, hospital bills, intimidation of citizens, communities, courts, businesses, etc, etc,) and the taxpayer ultimately has to pay for all the associated costs, which are inestimable. This is oppressive of the state and of all law abiding citizens.

Last year, on a Sunday evening An *Taoiseach* Enda Kenny TD, at the conclusion of a 'State of the Nation' address, indicated that he looked forward to growing old in an Ireland of respect, of which he could be proud. The supreme and embarrassing irony was that that speech was immediately followed by *Love/Hate* which comprehensively ridiculed such sentiments.

The *Love/Hate* soap/drama series unquestionably 'glamorises' and 'normalises' the illegal drugs culture which threatens the sovereignty, sanity and stability of the state

Veronica Guerin, a committed media person, gave her life singlehandedly confronting the 'drug barons', in sad contrast to the 'fawning commercialism' of RTÉ in commissioning and promulgating the *Love/Hate* series and doing a '*Pontius Pilate*' on the consequences. Veronica Guerin's life and death will have been in vain if this 'media fudge' is not confronted.

An initial sanction on RTÉ as a matter of justice might be:

- That all revenue from this series (or any other programmes that are ambivalent towards crime) be ring fenced and forfeited to fund bona fides community structures that struggle to cope with the victims of drug addiction and associated crime.
- RTÉ to sponsor from its own resources an enlightened ad campaign, to give redress to damage done, in consultation with the National Drugs Task Force.

Broadcaster's Response:

Initial response to complainant:

RTÉ acknowledged receipt of the complaint and passed on Mr. Owens' comments to the Commissioning Editor of *Love/Hate*.

Response to BAI:

RTÉ states since its inception, it has been part of the point and purpose of the series *Love/Hate* to explore the behaviour of a group of individuals engaged in crime, demonstrate that they are part of a shared society and not a detached enclave, and illustrate the corrosive and deeply damaging impact they have on their loved ones and on society as well as the immense corrupting influence they can have on impressionable people.

The cost of engagement – willingly or otherwise – with gang culture has been consistently referenced throughout the three series of *Love/Hate*, countering any temptation on the part of a viewer to identify inappropriately with the characters portrayed (ref. Content Principles 2.2.2). Across the sixteen episodes to date, examples of this damage to characters that are used, abused and discarded include:

- In Series One, a mother borrowing money from the credit union to pay off her son's debts is left living with fear and uncertainty about whether he's now safe from 'Nidge'.

Broadcasting Complaint Decisions

- A violent assault on the character 'Rosie' leads to her having a miscarriage. The opening of Episode Four of Series One was a four-minute monologue in which she articulated her feelings.
- Series Three followed the consequences of the rape of 'Siobhan' from the character's point of view, exploring the impact on her.
- The pernicious behaviour of 'Nidge' in Series Two destroys 'Linda' who takes her own life in response to his cruelty and disregard.
- In Series Two the impact of 'Darren's' behaviour as he tries to break away from 'John Boy' and the crime world so he can be with 'Rosie', who he loves, corrupts his sister 'Mary' by the criminality and dysfunction he brings to her door. Recognising that 'Darren' is damned, 'Rosie' refuses to live an illusion and leaves him to his inevitable destruction.
- 'Debbie' has been destroyed by drugs to the point of having betrayed and alienated her family, poignantly illustrated in Episode Five of Series Three when she thieves from her mother. 'Debbie' herself is embroiled in an appalling cycle of abuse at the hands of 'John Boy' in Series Two and into prostitution and persecution by 'Nidge' and 'Janet' in Series Three.
- A teenage joyrider is murdered execution style for a teenager's error and then dumped to be found by children on wasteground.
- 'Luke' is callously disposed of and dumped in the mountains in Series Two for becoming a potential threat to 'Nidge', enabled by his isolation and vulnerability.

The stories and characters are illustrative of the pain, fear and horror referred to in Mr. Owens' complaint, experienced by people who are connected by chance, misfortune or choice to a gangland culture, including those who enjoy success in that world, however temporary. The illusion of success and the good life are quickly dissipated by the reality of vicious violence and death.

For all the above reasons, it is clear that *Love/Hate* neither promotes nor incites to crime and is unambivalent in its portrayal of the damage to individuals and society caused by criminal activity.

In response to the Content Rules cited in the complaint:

3.1 Although violence is a staple of the culture portrayed in the series, its depiction is not excessive when compared to reality and is not glamorised in any way; the devastation caused by violence and the threat of violence is consistently shown, as is the inevitability of the demise of those attracted to a life of drug-related activities.

Broadcasting Complaint Decisions

3.2 The sexual conduct shown onscreen is appropriate to the narrative, and is not glamorised nor depicted gratuitously; notably the damage caused by prostitution is shown, alongside the drug use which frequently leads women to engage with it.

3.3 While authenticity demands and makes appropriate the use of coarse and abusive language between the characters portrayed, it is kept to a minimum, responsibly balancing the potential for offence with credibility.

3.4 While a gangland culture is portrayed, the characters of *Love/Hate* are not represented as a particular group; they come from diverse social backgrounds and each one occupies a distinct place on a moral spectrum. There is no stereotyping of individuals or groups and no discrimination against any persons or groups in society.

3.7 There is no encouragement whatsoever to use or abuse drugs; on the contrary, the cost of such use is consistently portrayed.

3.8 Nothing in the series could be taken as an encouragement to imitate the dangerous acts portrayed on occasion; again, the dire repercussions of such actions are shown time after time.

In response to the Content Principles cited in the complaint:

2.1 The behaviour in real life of many of the characters depicted in *Love/Hate* of course offends against commonly held standards in Irish society. However, the fictional portrayal of such behaviour clearly does not, as evidenced by the positive critical response and very large audiences, as well as the reaction of bodies such as the Rape Crisis Centre and An Garda Síochána.

2.2 In all publicity surrounding the series, the subject and treatment of the series is clearly portrayed, without glamour or deception. And in keeping with Content Principle 2.2.1, the programme is scheduled post-watershed (at 9.30pm), is prefaced by an unequivocal spoken warning of the material it contains, and accompanied by a Mature Audience classification.

2.4 RTÉ believes that an assessment of the programme material in whole and in context will demonstrate a responsible fictional portrayal of an unappealing reality in Irish society.

In addition, it is important to emphasise on behalf of RTÉ that *Love/Hate* is broadcast, as Mr. Owens says in the material accompanying his complaint, in the context of consistent coverage by RTÉ News and Current Affairs of the real world on which *Love/Hate* draws, through crime reporting, discussion and analysis.

Broadcasting Complaint Decisions

Decision of the Executive Complaints Forum:

When considering the complaints the members of the Forum reviewed the broadcasts, the submissions of the complainant and the broadcaster. The Forum also had regard to the sections 2.1, 2.2, 2.4, 3.1, 3.2, 3.3, 3.4, 3.7 & 3.8 of the Code of Programme Standards and section 48(1)(b) Law & Order under which Mr. Owens submitted his complaint.

While the Forum acknowledged that the broadcasts in question contained violence and bad language, the members noted that the programmes were aired after the watershed and came with a strong warning. The members therefore acknowledged that the broadcaster attempted to protect against causing undue harm. Given that this is the third series of Love/Hate, the Forum was of the view that the audience would expect such content as that contained in the three programmes cited.

The Forum did not agree with the complainant's belief that the programme "*glamorises the illegal drug culture*". Several scenes show the harsh results of getting involved in drugs at various levels. The drama series is reflective of a certain part of society and the use of bad language, violence and drugs is justified in this context as these were used for story and character development. The programmes in question could not be considered as an incitement to crime or encourage dangerous behaviour. The members were also of the view that the sexual content in the programmes in question did not appear to be gratuitous or unjustified and there was no evidence that the programme condoned discrimination against a certain section of society.

The complaints did not raise issues which required further consideration and the complaints were deemed resolved.

Broadcasting Complaint Decisions

Complaint made by: Reverend Raymond A. Hannon CC **Ref. Nos. 22/13 and 24/13**

<u>Station:</u>	<u>Programme:</u>	<u>Date:</u>
RTÉ One	Coal, Frankenstein and Mirror: An Irish Nativity	17 December 2012
	Mrs. Brown's Boys	25 December 2012

Complaint Summary:

Rev. Hannon's complaints are submitted under the Broadcasting Act 2009, Section 48(1)(b)(Code of Programme Standards).

1. **Coal, Frankenstein and Mirror: An Irish Nativity** – Ref No. 22/13

This complaint is submitted under the Code of Programme Standards, sections 2.1. General community standards, 2.2 Due care and 3.3.3 Inappropriate use of names considered sacred or holy. Rev Hannon objects to the mocking caption to four nativity plays by children. He complains about what he considers was the libel, slander and sacrilege coiled up on this programme.

2. **Mrs. Brown's Boys** – Ref No. 24/13

This complaint is submitted under the Code of Programme Standards, sections 2.1 General community standards; 2.2 Due care; 3.3 Coarse and offensive language; 3.3.1 Justification for inclusion of coarse/offensive language and 3.3.3 Inappropriate use names considered sacred or holy. Rev. Hannon states in the actual birth crib scene, Mrs. Brown lifts up her clothes and shows off "her child" which is the head of the old grandfather. She tells him to get into the manger. Rev. Hannon objects that the Saviour's Day was chosen by RTÉ to broadcast, what he refers to as, this blasphemy and sacrilege.

Broadcaster's Response:

Initial response to complainant:

RTÉ states:

1. The documentary *Coal, Frankenstein and Mirror: An Irish Nativity* was a respectful and warmly affectionate account of the rehearsal and performance of four school Nativity plays around Ireland and a perspective on family life in Ireland in 2012. Its title was drawn from the script of one of the plays, a piece of gentle humour in which the children playing the Three Wise Men say they bring "coal, Frankenstein and mirror" and are sent away to bring the correct gifts of gold, frankincense and myrrh.
2. The episode of *Mrs Brown's Boys* broadcast on Christmas Day is underpinned by an explicit belief in the events and meaning of The Nativity, which are never questioned. This is most clearly evident in the scene after the play is taken over from 'Mrs Brown' by her daughter and in the coda when 'Mrs Brown' is alone onstage.

It would be disingenuous to pretend that this recounting of the Nativity of Jesus is not accompanied by the rude comedy for which *Mrs Brown's Boys* is known, and of which the post-watershed audience are always forewarned, but it is arguable that this hugely popular series brought the essential message of The Nativity to very large audiences in Ireland and in Britain at Christmastime. RTÉ maintains that no offence was intended or directed at the religious views, beliefs or images at the core of the story of The Nativity.

Response to BAI:

RTÉ further states:

1. *Coal, Frankenstein and Mirror: An Irish Nativity*

This broadcast was a respectful and warmly affectionate account of the rehearsal and performance of four schools Nativity plays around Ireland and a perspective on family life in Ireland in 2012. Its title was drawn from the script of one of the plays, a piece of gentle humour in which the children playing the Three Wise Men say they bring “coal, Frankenstein and mirror” and are sent away to bring the correct gifts of gold, frankincense and myrrh. The suggestion that the title was intended to or could possibly give offence under any Content Principle or Rule is incomprehensible.

2. *Mrs Brown's Boys*

The Content Rule 3.4.5 of the BAI Code of Programme Standards states that: “Broadcasters shall take measures to prevent undue offence in the treatment of religious views, beliefs or images during programme material.”

The episode of *Mrs. Brown's Boys* broadcast on Christmas Day was underpinned by an explicit belief in the events and meaning of The Nativity, which are never questioned. This is most clearly evident in the scene after the play is taken over from ‘Mrs Brown’ by her daughter and in the coda when ‘Mrs Brown’ is alone onstage.

With reference to Content Principle 2.2 Due Care which states that “A broadcaster shall exercise due care by taking all reasonable measures to ensure that viewers and listeners . . . are protected from undue offence and from harm,” *Mrs Brown's Boys* was, as the programme always is, broadcast post-watershed on 25th December 2012, at 9.45pm.

Audience figures for the Christmas Day episode of the programme reflected the ongoing popularity of the series, with 972,000 viewers (46% of the available audience), a strong indication that the programme does not “offend against commonly held standards considered acceptable in contemporary Irish society” (Content Principle 2.1 General Community Standards).

Broadcasting Complaint Decisions

Decision of Executive Complaints Forum:

Ref: 22/13 – Coal, Frankenstein and Mirror: An Irish Nativity – 17/12/2012

When considering the complaint the members of the Forum reviewed the broadcasts, the submissions of the complainant and the broadcaster. The Forum also had regard to the sections 2.1, 2.2 & 3.3.3 of the Code of Programme Standards under which Reverend Hannon submitted his complaint.

The Forum noted that the programme in question was an observation documentary which followed three different groups of teachers, children and parents in the lead up to the performance of their nativity play. The members felt that the programme was unlikely to have caused harm of widespread offence. The title was based on a line in one of the plays in which the three wise men mistakenly say they have “*Coal, Frankenstein & Mirror*”, The Forum found no evidence that this humorous play on words was mocking or that the programme, which dealt with issues such as bereavement, was spiteful in tone.

The complaint did not raise issues which required further consideration and the complaints were deemed resolved.

Ref: 24/13 - Reverend Raymond A. Hannon CC – Mrs. Brown’s Boys – 25/12/2012

When considering the complaint the members of the Forum reviewed the broadcasts, the submissions of the complainant and the broadcaster. The Forum also had regard to the sections 2.1, 2.2 & 3.3.3 of the Code of Programme Standards under which Reverend Hannon submitted his complaint.

While the Forum did question the scheduling of the programme on Christmas day, they noted that it was broadcast after the watershed and that any use of holy names was in the context of the nativity-themed show. The members acknowledged that the programme in question was not to everyone’s taste, however, Mrs. Brown’s Boys is a well-known comedy and the audience would expect the type of humour which occurred in this broadcast. Further, prior to the broadcast the programme was heavily promoted, which was further indication to audiences of the type of humour to expect.

Overall the complaint did not raise issues which required further consideration and the complaints were deemed resolved.

