



ÚDARÁS  
CRAOLACHÁIN  
NA hÉIREANN

BROADCASTING  
AUTHORITY  
OF IRELAND

**Broadcasting Authority of Ireland**

**Broadcasting Complaints Decisions**

**March 2014**

### Broadcasting Complaints Decisions

Under the Broadcasting Act 2009, viewers and listeners can complain about broadcasting content which they believe is not in keeping with broadcasting codes and rules. In line with the complaint process, the viewer or listener should direct their complaint to the broadcaster in the first instance with regard to the broadcaster's *Code of Practice for Handling Complaints*, a 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 complaints decisions reached by the BAI are set out in this document.

At its meeting held on 4<sup>th</sup> March 2014, the Compliance Committee rejected nine complaints while one complaint was resolved by the Executive at a meeting held in February 2014.

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### Rejected by BAI Compliance Committee

**Complaint made by: Mr. Pat Murphy**

**Ref. No. 96/13**

**Station:**

Newstalk 106

**Programme:**

The Pat Kenny Show

**Date:**

06 November 2013

**Complaint Summary:**

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

The complainant claims that while interviewing Deputy Jerry Buttimer on the subject of the proposed Referendum on Gay Marriage, the presenter effectively communicated to the audience his personal views on this matter of public importance when he asked Deputy Buttimer whether he intended to get married "when this passes" i.e. when in the presenter's opinion, the proposed Referendum passes. The complainant states that in framing of that question in that manner, the presenter left the listening audience in no doubt as to his personal views on the proposed Referendum. The complainant believes this is an infringement of the requirement that the presenters in current affairs programmes remain impartial.

The complainant claims further evidence of this infringement is apparent in the interview when Deputy Buttimer praised the presenter for his support etc., in previous times. While noting that the presenter cannot be held responsible for Deputy Buttimer's assertion that the presenter would be supportive of the proposed Referendum passing, the complainant states that the presenter made no attempt to state that as a presenter of a current affairs programme, he must remain impartial on the issue. The complainant believes the whole interview was a 'free advertisement' for the Yes side in the proposed Referendum. He states that there was no alternative voice and no indication that any other person on the No side was to appear on the programme.

**Broadcaster's Response:**

**Initial response to complainant:**

The complainant did not receive a response from the broadcaster.

**Response to BAI:**

Newstalk state that the introduction to the item in question makes it clear that the issue of gay marriage has yet to be decided in a referendum:

*"A referendum on gay marriage is going to be put to the people. The government announced a constitution day where a number of issues discussed by the Constitution Convention will be voted upon".*

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Newstalk claim that the presenter made it clear in the course of the interview that the Referendum was not a foregone conclusion:

*“when the issue comes to be debated on programmes like this one, it will be clear, do you want same sex marriage or do you not”.*

The broadcaster states that the presenter also made a point of mentioning that the alternative side of the argument was on Newstalk when he said to Mr. Buttimer:

*“Pat Deering, your colleague was on Newstalk Breakfast yesterday and he was saying that he didn’t think this was a good idea as it would be difficult to bring people around to this”*

Newstalk claims this was a fair and balanced interview.

### Decision of the Compliance Committee

The Committee considered the broadcast and the submissions from the broadcaster and the complainant. Following its consideration of the material, the Committee has decided to reject the complaint. In reaching this decision, the Committee had regard to the following:

- The context for the interview was the decision of the Government, announced on the day prior to the interview, to hold a referendum in 2015 on the issue of gay marriage. Jerry Buttimer T.D. was interviewed by the presenter with a view to providing his perspective on this decision as a gay man and as a leader of the LGBT group in Dáil Éireann;
- The Committee found, upon reviewing the broadcast, that the discussion did not have the political elements of this decision of the Government as its principal focus, but instead had a human interest focus and examined the personal views and experiences of Jerry Buttimer T.D., the attitudes of his political colleagues and friends to the decision of the Government and the personal disposition of An Taoiseach to this issue;
- In this regard, the Committee found that the bulk of the conversation was on Deputy Buttimer’s personal experience of being a gay man, including issues such as his desire to get married, attitudes to society on the issue of gay marriage and whether society was likely to be supportive of a change to the constitution, having regard to recent opinion polls and how much they can be relied upon;
- The Committee also noted that the date for the referendum is mid-2015, nearly two years from the date of the interview about which the complaint has been made and no specific proposal has been published. Given this, the interview and the views of the presenter could not reasonably be considered as advocating a particular output to the referendum. While the presenter made a reference to the passing of the referendum, it was the Committee’s view that this single remark within the interview as a whole could not be considered evidence of a lack of fairness, objectivity and impartiality on the part of the presenter. Moreover, the Committee noted that the interview included a discussion of the wide range of views on the issue of gay marriage, including issues such as the differences between sacramental and civil marriages and questions relating to the raising of children by same sex couples;

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- Accordingly, having considered the broadcast as a whole, the Committee has decided to reject the complaint;
- Further to section 47 of the Broadcasting Act 2009, broadcasters are required to give due and adequate consideration to a complaint received and to assess such complaints in line with its *Code of Practice for Complaints Handling*. The Committee noted with disappointment that the broadcaster had failed to respond to the complainant in the first instance. This matter will be addressed directly with the broadcaster.

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**Complaint made by: Mr. Michael O'Shea**

**Ref. No. 100/13**

**Station:**

RTÉ Radio One

**Programme:**

Marian Finucane Show

**Date:**

22 September 2013

**Complaint Summary:**

Mr. O'Shea's complaint is submitted under the Broadcasting Act 2009, 48(1)(a) (*fairness, objectivity and impartiality in current affairs*) and the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs – Rules 4.1; 4.2; 4.22.

The complainant claims that the discussion regarding the ASTI vote on the Haddington Road Agreement was not fair, balanced or impartial. The discussion, in the complainant's view, entailed the expression of negative views on the result of the ASTI 'no' vote on the Agreement. The complainant claims that the entire panel included in this programme took an anti-ASTI stance and that the presenter made no effort to bring fairness into the debate. He further states that some of the presenter's comments implied the direct opposite. The complainant states that, as there was no representative from the ASTI on the programme to provide balance, the presenter had a responsibility to reflect the views of an absent party and to do so fairly.

The complainant claims that the broadcast, in the absence of a balanced panel or outside source, showed the ASTI in a very negative light, by almost implying that they hardly had the right to vote 'no' to the Haddington Road Agreement just because the INTO and the TUI had accepted the deal. He states that it further implied that the ASTI's rejection of the proposed agreement was portrayed as if the ASTI may have made a mistake in doing so, with the presenter asking the panel, "were they mad?" to reject the agreement.

**Broadcaster's Response:**

**Initial response to complainant:**

RTÉ state that the purpose of Sunday's newspaper panel is to review the content of the papers and to pick out articles and coverage that warrant further discussion. To that end the panel is carefully designed to include individuals from different areas of society who are confident and informed on a wide variety of topics both domestic and international. It is not possible, however, with a panel of five people, to include an individual specific to each news item that may be discussed.

The broadcaster states that the topic of the teachers' ballot was highlighted by the presenter voicing her surprise that there was little coverage in the Sunday newspapers of an event that would presumably impact on many households in the country. This was a robust discussion involving all members of the panel and the presenter is there to facilitate that process.

The broadcaster states that, whilst there was no ASTI representative included in the discussion neither was there a TUI representative. The entire panel expressed views on the outcome of the ASTI, TUI and INTO vote on the Haddington Road Agreement. Two panellists with a particular interest in the discussion were former INTO General Secretary and former Senator, Joe O'Toole and former ASTI member and Fine Gael TD, John O'Mahony.

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RTÉ point out that these two panellists were primarily included to take part in a one-on-one discussion on the then upcoming Seanad Referendum with Joe O'Toole urging a "No" vote and John O'Mahony asking people to vote "Yes".

The broadcaster states that this discussion was conducted against the backdrop of possible industrial action by the country's secondary school teachers. At no time during the discussion did anybody on the panel attempt to speak for the ASTI. Both John O'Mahony and Joe O'Toole acknowledged that there had been difficult times for teachers and issues that needed to be resolved.

The broadcaster states that it is the presenter's role to provoke debate around the different topics that arise and to ask the questions that listeners at home are thinking in an informal and conversational way. As the ASTI was the only teaching union to reject the Haddington Road agreement, it was in that conversational spirit that the presenter asked John O'Mahony "do you think they were nuts to vote against it?" John O'Mahony went on to say that he thought the worst thing that anybody could do, would be to tell the ASTI what to do. When John O'Mahony said Minister Howlin had made it clear there would be no renegotiation on what he called this "second chance" Haddington Road Agreement, the presenter challenged this saying "*he did that before and he capitulated*".

### **Response to BAI:**

RTÉ states that the newspaper panel on Sunday's edition of *Marian Finucane* is selected and structured to discuss a number of topics, ranging across politics, business, sport, entertainment, and lifestyle and so on. The brief for the panel is as diverse as the subjects covered in the newspapers and not structured around any individual topic. The topics under consideration in the programme of 22.09.13 included the banking guarantee, possible green shoots in Ireland's business community, the Kenyan shopping mall shooting, the Seanad referendum, the German election and the All-Ireland football final. The panel is designed to include individuals from different areas of society who are informed on a wide variety of topics both domestic and international. RTÉ asserts strongly that this conversational and discursive format is valid and valuable, and that its nature and purpose are well understood by listeners.

The broadcaster also noted that a programme which set out to examine the response of teachers to the Haddington Road Agreement might well have included a representative of the ASTI alongside representatives of the Teachers Union of Ireland (TUI) and of the INTO, both of which voted to accept the Agreement. The broadcaster states that this was not such a programme and it was clear to listeners that this was the case. Notwithstanding these considerations of the newspaper panel format, it is significant that on the topic which is the subject of complaint – the differing decisions on the Agreement of the teachers' unions, two of the contributors, John O'Mahony and Joe O'Toole, were both former teachers, in Deputy O'Mahony's case actually a former member of the ASTI, and in Mr. O'Toole's case a former trade union leader, including of the INTO.

The broadcaster states that Deputy O'Mahony and Mr. O'Toole were also the two most prominent speakers, not least because of the presenter's consistent encouragement of their contributions, as panellists well positioned to give an insight into the thinking of teachers on the topic.



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While expressing disappointment that the ASTI had voted against the Agreement and noting that their TUI colleagues had voted in its favour, as well as some positive aspects of the Agreement for younger teachers, the broadcaster states that Deputy O'Mahony was markedly temperate in his reaction to the ASTI vote. While he regretted the ASTI decision, his approach was analytical rather than critical.

The broadcaster states that Mr. O'Toole, speaking from his experience as a teacher's representative, expressed his understanding of the strategy adopted by the INTO and the TUI in accepting the Agreement. Similarly to Deputy O'Mahony, his approach was predominantly analytical and included expressing his understanding of the motives which could have prompted ASTI members to vote against the Agreement. The discussion was dominated by consideration of the ASTI decision as a strategic move alongside the contrary decisions of other teachers' unions and its significance in that context

RTÉ asserts that it is not required by the *Code of Fairness, Objectivity and Impartiality* to cover in each and every discussion of a topic all aspects of that topic; and that it is valid, in the context of a wide-ranging panel discussion of newspapers, to focus on a particular aspect, in this case the strategic implications of three related trade union decisions. The presenter's role in provoking discussion and facilitating the expression of contributors' opinions can include, as it did here, the putting of forceful questions. RTÉ asserts that the putting of these questions did not result in the advocacy of a partisan position on the topic.

### Decision of the Compliance Committee

The Committee considered the broadcast and the submissions from the broadcaster and the complainant. Following a review of the material, the Committee has decided to reject the complaint. In reaching this decision, the Committee had regard to the following:

- The format for a large portion of the Sunday edition of the Marian Finucane Show is a panel discussion of the Sunday newspapers and the main news stories of the week. In this regard, the panel is offered the opportunity to provide their personal and professional opinions on these news stories as part of a discussion and debate driven by and mediated by the presenter. The Committee noted that as a regular part of this programme, audiences would have been familiar with the panel discussion format and would have listened to the programme with this expectation;
- Having reviewed the broadcast, the Committee noted that during the discussion on the decision of the ASTI in respect of the Haddington Road Agreement that no representative of any teachers union was represented but that the perspective of educationalists was provided via contributions from former senator and trade union leader, Joe O' Toole and the Fine Gael Deputy and former ASTI member, John O'Mahony. The Committee also noted that the focus of the discussion was the options open to the ASTI and ASTI affiliated teachers following their decision to reject the Haddington Road Agreement;
- The Committee found that this focus and questions about whether this decision by ASTI was sensible from a strategic perspective were legitimate questions in circumstances where the other two teachers unions had voted in favour of the agreement and in circumstances where the potential for further negotiations with Government appeared limited.

Questions and discussion about possible industrial action and the impact on students and parents of any such action were also considered by the Committee to be legitimate questions. The Committee did not consider that the asking of such questions demonstrated bias or a lack of fairness or impartiality on the part of the programme makers. The Committee also noted that the panel discussed the negative impact of the Croke Park Agreement and the likely impact of the Haddington Road Agreement on the pay and conditions of teachers and the influence of both on the decision of teachers to reject the second agreement;

- Regarding the comment by presenter when she asked whether the teachers were ‘nuts’ to reject the agreement; the Committee was of the view that this was posited as a question intended to provoke discussion rather than an assertion of the presenter’s own views and the question was posited in a context where further negotiations between Government and ASTI were not certain or seemingly unlikely at that time;
- As part of a news and current affairs discussion, it is not a *de facto* requirement that a representative from an organisation referenced in a discussion should be granted airtime. Rather, what is important is whether the treatment of that group and their views is fair, objective and impartial. Having reviewed the broadcast, it was the Committee’s view that it predominantly entailed an exploration of the impact and rationale for the decision of the ASTI to reject the Haddington Road Agreement. The Committee was of the view that, having regard to the content and the format of the discussion, that there were no comments that lacked fairness, objectivity and impartiality and which would have warranted an on-air contribution from the ASTI so as to ensure that the requirements of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* were attained. Accordingly, the complaint was rejected.

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

**Ref. No. 104/13**

**Station:**  
RTÉ One

**Programme:**  
6.01 News

**Date:**  
27 November 2013

### **Complaint Summary:**

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

The complaint refers to comments made by the presenter when he referred to protesters who could be seen in the background during an interview, as "idiots". The complainant claims that these were peaceful protesters that came into camera shot and waved their signs about but in a peaceful manner. The protesters were, in the complainant's opinion and from his experience, non-threatening in their behaviour. The complainant further claims the interview took place outside the Dáil where there was a Garda presence. The complainant states that the protesters were there to hear their own Bill by the Ballyhea group, being put to the Dáil by the independent T.D.s in the Technical Group. The complainant claims that the presenter's comments were neither objective nor impartial and they belittled the content of the Bill being discussed and could have influenced the outcome of the live debate by his negative comments.

### **Broadcaster's Response:**

#### **Initial response to complainant:**

RTÉ states that the presenter was interviewing Economist Ronan Lyons outside Government buildings when a number of protesters walked into shot behind him during live transmission and began moving about. The studio team believed the result was very distracting and made the interview difficult to follow for the audience. RTÉ is also obliged to consider the welfare of the guest/correspondent and cameraman in situations like this. A decision was taken to conclude the interview earlier than planned and the presenter communicated this. He then made an off the cuff remark caused by the frustration of having to cut the interview short. His remark was solely about the interruption to the live broadcast and was not in any way a reference to the subject of the protest or the right of people generally to protest. The comment came in the heat of the moment but RTÉ accepts it would be better if the remark had not been made.

#### **Response to BAI:**

RTÉ states that the item complained of took place during a live interview with an economist, Ronan Lyons, on the topic of house prices. Approximately 80 seconds into this live interview, from a position on Merrion Street across the road from Government Buildings (not outside the Dáil), three people, one carrying a cut-out mask of the Taoiseach's face, another a placard saying 'Burn the Bonds not the Billions', walked into the background of the shot, close to the interviewee. Two of the individuals moved about, talking to each other. The third person initially held the placard in full vision to one side of the shot and then moved to hold it directly behind the interviewee's head, where its wording was partially obscured.

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At this point, the presenter said: *"I'll tell you what, Ronan, I'm going to stop that there because the idiots behind you are a bit of a distraction so we'll try and get rid of those and come back to you if we can."*

The broadcaster states that the production decision to abandon the interview was done in the interests of the safety of the interviewee and crew in a situation which had become unpredictable and potentially uncontrollable and also having judged that the behaviour of the individuals in the background was so distracting as to make the interview valueless to the viewer. RTÉ, however, does not suggest that their behaviour was threatening.

In conveying the decision, the presenter's frustration at having to cut short the interview was unfortunately and spontaneously expressed in the use of one word – "idiots" – in an otherwise factual statement.

The broadcaster states that a viewing of the item makes it clear that:

- The individuals who entered shot were not engaged in an organised protest but were making improvised use of the live broadcast to appear on national television. Their behaviour was therefore unpredictable and, on a busy city street, potentially hazardous. RTÉ news reports (live and otherwise), frequently include in shot organised protests behind reporter and/or interviewees. This was not such a protest.
- While their point of view was conveyed to some extent by the presence of the placard stating 'Burn the Bonds not the Billions', it was the distracting nature of the individuals' movements, including talking to each other and holding the placard behind the interviewee's head, which obliged the abandoning of the interview.
- The presenter's use of the term "idiots" was in reference to the behaviour of the individuals who had entered the shot and caused the termination of the interview, not to their point of view, insofar as it was discernible. There was no reference to a topic which is the subject of the Broadcasting Act 2009 or of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

RTÉ wishes to clarify that the RTÉ crew consisted of one person – a cameraman, also responsible for sound recording. There was also a satellite van operator in a van nearby, responsible for the relay of the signal back to RTÉ studios. There was no reporter; the interviewer was in studio and not on site.

The following day, 28 November, a statement was issued by the Communications Manager of RTÉ News & Current Affairs on behalf of Mr. Dobson which stated:

*"I never meant to cause offence with my remarks last night which were in reference to the interruption of interview during a live broadcast rather than the topic of any protest."*

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### Decision of the Compliance Committee

The Committee considered the broadcast and the submissions from the broadcaster and the complainant. Following its review of the material provided the Committee has decided to reject the complaint. In reaching this decision, the Committee had regard to the following:-

- The programme item in question was linked to rises in property prices, in particular in the Dublin area. It entailed a live interview between the presenter, who was in the studio, and an economist standing outside Government buildings, about the reasons for this price rise. In this context, the Committee noted that the interview was not discussing the issue of the 'bailout' of the Irish economy (the issue that the protesters standing behind the interviewee were focused on). The interview was also not discussing the Bill being discussed in Dáil Éireann on the evening of the interview and was also not intended in any way as coverage of a protest. Hence, the actions of the protestors could not be considered as the matter of news and current affairs that constituted the subject of the broadcast;
- The Committee noted that the protestors entered the camera shot after the interview had commenced, moved during the interview and could be heard talking. Accordingly the presenter/production team was required to react to their presence and make a judgment call as to whether to proceed with the interview in a situation where the protestors were a prominent part of the shot, positioned as they were directly behind the interviewee, and not at a distance as contended by the complainant;
- Editorial decisions taken during live or pre-recorded interviews are a matter for the broadcaster. In this instance, the presenter/production team evidently believed that the presence of the protestors in close proximity to the interview was interfering with the conduct of the interview and chose to end the interview as a result. A decision such as this rests solely and appropriately with the broadcaster. In this regard, the Committee noted that the presenter clearly linked the decision to end the interview with what he considered to be the 'distraction' being caused by the protestors;
- The Committee was of the view that the presenter could have handled the situation in a better manner and avoided the use of the term "idiots" to describe the protestors. However, on viewing the broadcast, the Committee was of the opinion that the term used arose out of frustration at the distraction that he reasonably believed the protestors were causing and could not be seen as a comment on the message that the protestors wished to communicate;
- In reaching this decision, the Committee had regard to the fact that the presenter's use of the term "idiots" was clearly linked to his description of the presence of the protestors as a distraction. The Committee also had regard to the fact that the interview in question was unrelated to the message of the protestors and that the presenter was clearly dealing with a technical issue linked to, as he saw it, the disruption in the quality of the interview being broadcast live. The actions of the protestors did not constitute the subject matter of the interview and the presenter's comments upon those actions were therefore not subject to the relevant regulations regarding news and current affairs broadcasting.

As such, the presenters comment were not viewed by the Committee as those that might belittle the content of a Bill being discussed that evening in Dáil Éireann (and which provided the contest for the presence of the protestors) or would be likely to influence the outcome of the Dáil debate;

- In summary, it is the Committee's opinion that the presenter's comments could not be considered to infringe broadcasting rules on fairness, objectivity and impartiality as set out in the Broadcasting Act or the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*. Accordingly, the complaint has been rejected.

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**Complaint made by: Mr. Phillip Russell**

**Ref. No. 106/13**

**Station:**

RTÉ One

**Programme:**

6.01 News

**Date:**

27 November 2013

**Complaint Summary:**

Mr. Russell's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a) *fairness, objectivity and impartiality in current affairs*), section 48(1)(b) *(harm & offence)*, the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rule 4.1, the BAI Code of Programme Standards: sections 3.3 *(coarse and offensive language)* and 3.4 *(persons and groups in society)*.

The complainant refers to comments made by the presenter when he described peaceful protesters, who could be seen in the background during an interview, as "idiots". The complainant states that not only were the presenter's comments unfair, they displayed an overt bias. The complainant further states that this is unacceptable for RTÉ, as a publicly funded broadcaster. He also states that the deafening silence from RTÉ does not help to correct this stance, which is reflective of RTÉ.

**Broadcaster's Response:**

**Initial response to complainant:**

RTÉ states that the presenter was interviewing an economist, Ronan Lyons, outside Government buildings when a number of protesters walks into shot behind him during live transmission and began moving about. The studio team believed the result was very distracting and made the interview difficult to follow for the audience. RTÉ is also obliged to consider the welfare of the guest/correspondent and cameraman in situations like this. A decision was taken to conclude the interview earlier than planned and the presenter communicated this. He then made an off the cuff remark caused by the frustration of having to cut the interview short. His remark was solely about the interruption to the live broadcast and was not in any way a reference to the subject of the protest or the right of people generally to protest. The comment came in the heat of the moment but RTÉ accepts it would be better if the remark had not been made.

**Response to BAI:**

RTÉ states that approximately 80 seconds into this live interview, from a position on Merrion Street across the road from Government Buildings, three people, one carrying a cut-out mask of the Taoiseach's face, another a placard saying 'Burn the Bonds not the Billions', walked into the background of the shot, close to the interviewee.

Two of the individuals moved about, talking to each other. The third person initially held the placard in full vision to one side of the shot and then moved to hold it directly behind the interviewee's head, where its wording was partially obscured.

At this point, the presenter said: "*I'll tell you what, Ronan, I'm going to stop that there because the idiots behind you are a bit of a distraction so we'll try and get rid of those and come back to you if we can.*"

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The broadcaster states that the production decision to abandon the interview was done in the interests of the safety of the interviewee and crew in a situation which had become unpredictable and potentially uncontrollable and also having judged that the behaviour of the individuals in the background was so distracting as to make the interview valueless to the viewer.

In conveying the decision, the presenter's frustration at having to cut short the interview was unfortunately and spontaneously expressed in the use of one word – "idiots" – in an otherwise factual statement.

The broadcaster states that a viewing of the item makes it clear that:

- The individuals who entered shot were not engaged in an organised protest but were making improvised use of the live broadcast to appear on national television. Their behaviour was therefore unpredictable and, on a busy city street, potentially hazardous. RTE news reports (live and otherwise), frequently include in shot organised protests behind reporter and/or interviewees. This was not such a protest.
- While their point of view was conveyed to some extent by the presence of the placard stating 'Burn the Bonds not the Billions', it was the distracting nature of the individuals' movements, including talking to each other and holding the placard behind the interviewee's head, which obliged the abandoning of the interview.
- The presenter's use of the term "idiots" was in reference to the behaviour of the individuals who had entered the shot and caused the termination of the interview, not to their point of view, insofar as it was discernible. There was no reference to a topic which is the subject of the Broadcasting Act 2009 or of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

The following day, 28 November, a statement was issued by the Communications Manager of RTE News & Current Affairs on behalf of Mr. Dobson which stated:

*"I never meant to cause offence with my remarks last night which were in reference to the interruption of interview during a live broadcast rather than the topic of any protest."*

### Decision of the Compliance Committee

The Committee considered the broadcast and the submissions from the broadcaster and the complainant. Following its review of the material provided the Committee has decided to reject the complaint. In reaching this decision, the Committee had regard to the following:-

- The programme item in question was linked to rises in property prices, in particular in the Dublin area. It entailed a live interview between the presenter, who was in the studio, and an economist standing outside Government buildings, about the reasons for this price rise. In this context, the Committee noted that the interview was not discussing the issue of the 'bailout' of the Irish economy, the issue that the protesters standing behind the interviewee were focused on, nor was the interview intended in any way as coverage of a protest. Hence, the actions of the protestors could not be considered as the matter of news and current affairs that constituted the subject of the broadcast;



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- The Committee noted that the protestors entered the camera shot after the interview had commenced, moved during the interview and could be heard talking. Accordingly the presenter/production team was required to react to their presence and make a judgment call as to whether to proceed with the interview in a situation where the protestors were a prominent part of the shot, positioned as they were directly behind the interviewee, and not at a distance as contended by the complainant;
- Editorial decisions taken during live or pre-recorded interviews are a matter for the broadcaster. In this instance, the presenter/production team evidently believed that the presence of the protestors in close proximity to the interview was interfering with the conduct of the interview and chose to end the interview as a result. A decision such as this rests solely and appropriately with the broadcaster. In this regard, the Committee noted that the presenter clearly linked the decision to end the interview with what he considered to be the 'distraction' being caused by the protestors;
- The Committee was of the view that the presenter could have handled the situation in a better manner and avoided the use of the term "idiots" to describe the protestors. However, on viewing the broadcast, the Committee was of the opinion that the term used arose out of frustration at the distraction that he reasonably believed the protestors were causing and could not be seen as a comment on the message that the protestors wished to communicate;
- In reaching this decision, the Committee had regard to the fact that the presenter's use of the term "idiots" was clearly linked to his description of the presence of the protestors as a distraction. The Committee also had regard to the fact that the interview in question was unrelated to the message of the protestors and that the presenter was clearly dealing with a technical issue linked to, as he saw it, the disruption in the quality of the interview being broadcast live. The actions of the protestors did not constitute the subject matter of the interview and the presenter's comments upon those actions were therefore not subject to the relevant regulations regarding news and current affairs broadcasting. As such, the presenter's comments could not be considered to infringe broadcasting rules on fairness, objectivity and impartiality as set out in the Broadcasting Act or the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*;
- Having regard to the above points, the Committee did not agree with the complainant that the presenter's comment infringed the rules of the *BAI Code of Programme Standards* in respect of coarse and offensive language or protection of groups and individuals. Accordingly, all aspects of the complaint have been rejected.

## Broadcasting Complaints Decisions

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**Complaint made by: Mr. Joseph Smith**

**Ref. No. 107/13**

**Station:**

RTÉ One

**Programme:**

6.01 News

**Date:**

27 November 2013

**Complaint Summary:**

Mr. Smith's complaint is submitted under the Broadcasting Act 2009, 48(1)(a) *fairness, objectivity and impartiality in current affairs, the BAI Code of Fairness, Objectivity and impartiality - Rules 4.1, 4.2 & 4.22, and the BAI Code of Programme Standards - sections 2.1 (general community standards), 3.4 (persons and groups in society), 3.5 (factual programming).*

The complainant refers to comments made by the presenter during this programme when he referred to protesters, who could be seen in the background during an interview he conducted with economist Ronan Lyons, as "idiots". The complainant state that he was offended by the reference to protesters as "idiots". He further states that the presenter also referred to "getting rid of them" which the complainant believes exhibited his partiality and use of intemperate language. The complainant believes an apology from the presenter is required.

**Broadcaster's Response:**

**Initial response to complainant:**

RTÉ states that the presenter was interviewing an economist, Ronan Lyons, outside Government buildings when a number of protesters walked into shot behind him during live transmission and began moving about. The studio team believed the result was very distracting and made the interview difficult to follow for the audience. RTÉ is also obliged to consider the welfare of the guest/correspondent and cameraman in situations like this. A decision was taken to conclude the interview earlier than planned and the presenter communicated this. He then made an off the cuff remark caused by the frustration of having to cut the interview short. His remark was solely about the interruption to the live broadcast and was not in any way a reference to the subject of the protest or the right of people generally to protest. The comment came in the heat of the moment but RTÉ accepts it would be better if the remark had not been made.

**Response to BAI:**

RTÉ states that the item complained of took place during a live interview with economist Ronan Lyons on the topic of house prices. Approximately 80 seconds into this live interview, from a position on Merrion Street across the road from Government Buildings (not outside the Dáil), three people, one carrying a cut-out mask of the Taoiseach's face, another a placard saying 'Burn the Bonds not the Billions', walked into the background of the shot, close to the interviewee. Two of the individuals moved about, talking to each other. The third person initially held the placard in full vision to one side of the shot and then moved to hold it directly behind the interviewee's head, where its wording was partially obscured.

At this point, the presenter said: "*I'll tell you what, Ronan, I'm going to stop that there because the idiots behind you are a bit of a distraction so we'll try and get rid of those and come back to you if we can.*"

## Broadcasting Complaints Decisions

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The broadcaster states that the production decision to abandon the interview was done in the interests of the safety of the interviewee and crew in a situation which had become unpredictable and potentially uncontrollable and also having judged that the behaviour of the individuals in the background was so distracting as to make the interview valueless to the viewer. RTÉ does not suggest, however, that their behaviour was threatening.

In conveying the decision, the presenter's frustration at having to cut short the interview was unfortunately and spontaneously expressed in the use of one word – “idiots” – in an otherwise factual statement.

A viewing of the item makes it clear that:

- The individuals who entered shot were not engaged in an organised protest but were making improvised use of the live broadcast to appear on national television. Their behaviour was therefore unpredictable and, on a busy city street, potentially hazardous. RTÉ news reports, live and otherwise, frequently include in shot organised protests behind reporter and/or interviewees. This was not such a protest.
- While their point of view was conveyed to some extent by the presence of the placard stating ‘Burn the Bonds not the Billions’, it was the distracting nature of the individuals’ movements, including talking to each other and holding the placard behind the interviewee's head, which obliged the abandoning of the interview.
- The presenter's use of the term “idiots” was in reference to the behaviour of the individuals who had entered the shot and caused the termination of the interview, not to their point of view, insofar as it was discernible. There was no reference to a topic which is the subject of the Broadcasting Act 2009 or of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

RTÉ wishes to clarify that the RTÉ crew consisted of one person – a cameraman, also responsible for sound recording. There was also a satellite van operator in a van nearby, responsible for the relay of the signal back to RTÉ studios. There was no reporter; the interviewer was in studio and not on site.

The following day, 28 November, a statement was issued by the Communications Manager of RTÉ News & Current Affairs on behalf of Mr. Dobson which stated:

*“I never meant to cause offence with my remarks last night which were in reference to the interruption of interview during a live broadcast rather than the topic of any protest.”*

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

The Committee considered the broadcast and the submissions from the broadcaster and the complainant. Following its review of the material provided the Committee has decided to reject the complaint.

## Broadcasting Complaints Decisions

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In reaching this decision, the Committee had regard to the following:-

- The programme item in question was linked to rises in property prices, in particular in the Dublin area. It entailed a live interview between the presenter, who was in the studio, and an economist standing outside Government buildings, about the reasons for this price rise. In this context, the Committee noted that the interview was not discussing the issue of the 'bailout' of the Irish economy, the issue that the protesters standing behind the interviewee were focused on, nor was the interview intended in any way as coverage of a protest. Hence, the actions of the protestors could not be considered as the matter of news and current affairs that constituted the subject of the broadcast;
- The Committee noted that the protestors entered the camera shot after the interview had commenced, moved during the interview and could be heard talking. Accordingly the presenter/production team was required to react to their presence and make a judgment call as to whether to proceed with the interview in a situation where the protestors were a prominent part of the shot, positioned as they were directly behind the interviewee, and not at a distance as contended by the complainant;
- Editorial decisions taken during live or pre-recorded interviews are a matter for the broadcaster. In this instance, the presenter/production team evidently believed that the presence of the protestors in close proximity to the interview was interfering with the conduct of the interview and chose to end the interview as a result. A decision such as this rests solely and appropriately with the broadcaster. In this regard, the Committee noted that the presenter clearly linked the decision to end the interview with what he considered to be the 'distraction' being caused by the protestors;
- The Committee was of the view that the presenter could have handled the situation in a better manner and avoided the use of the term "idiots" to describe the protestors. However, on viewing the broadcast, the Committee was of the opinion that the term used arose out of frustration at the distraction that he reasonably believed the protestors were causing and could not be seen as a comment on the message that the protestors wished to communicate;
- In reaching this decision, the Committee had regard to the fact that the presenter's use of the term "idiots" was clearly linked to his description of the presence of the protestors as a distraction. The Committee also had regard to the fact that the interview in question was unrelated to the message of the protestors and that the presenter was clearly dealing with a technical issue linked to, as he saw it, the disruption in the quality of the interview being broadcast live. In view of this, the Committee did not agree with the complainant that the presenter was expressing his own views such that a partisan position was being advocated, contrary to the requirements of section 4.22 of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*;
- In summary, it is the view of the Committee that the actions of the protestors did not constitute the subject matter of the interview and the presenter's comments upon those actions were therefore not subject to the relevant regulations regarding news and current affairs broadcasting.

## Broadcasting Complaints Decisions

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Accordingly, the presenter's comments could not be considered to infringe broadcasting rules on fairness, objectivity and impartiality as set out in the Broadcasting Act or the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*;

- Having regard to the above points, the Committee did not agree with the complainant that the presenter's comment infringed the rules of the *BAI Code of Programme Standards* in respect of commonly held standards, protection of groups and individuals in society or factual programming. Accordingly, all aspects of the complaint have been rejected.

## Broadcasting Complaints Decisions

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**Complaint made by: Mrs. Catherine Dolan**

**Ref. No. 108/13**

**Station:**

RTÉ One

**Programme:**

6.01 News

**Date:**

27 November 2013

**Complaint Summary:**

Mrs. Dolan's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a) *fairness, objectivity and impartiality in current affairs*) and under the BAI Code of Fairness, Objectivity and impartiality - Rules 4.1, 4.2 and 4.22.

The complainant refers to comments made by the presenter during this programme. The complainant states that while dealing with a report on property prices, a peaceful protestor appeared behind the reporter holding a poster in the middle of the interview which was not being disrupted or interfered with. The complainant states that the presenter referred to the protestor/protestors as "idiots" and that this comment was unfair. She also states that calling a peaceful protestor an "idiot" is definitely not being impartial in a democratic society.

**Broadcaster's Response:**

**Initial response to complainant:**

RTÉ states that the presenter was interviewing an economist, Ronan Lyons, outside Government buildings when a number of protesters walks into shot behind him during live transmission and began moving about. The studio team believed the result was very distracting and made the interview difficult to follow for the audience. RTÉ is also obliged to consider the welfare of the guest/correspondent and cameraman in situations like this. A decision was taken to conclude the interview earlier than planned and the presenter communicated this. He then made an off the cuff remark caused by the frustration of having to cut the interview short. His remark was solely about the interruption to the live broadcast and was not in any way a reference to the subject of the protest or the right of people generally to protest. The comment came in the heat of the moment but RTÉ accepts it would be better if the remark had not been made.

**Response to BAI:**

RTÉ states that approximately 80 seconds into this live interview, from a position on Merrion Street across the road from Government Buildings, three people, one carrying a cut-out mask of the Taoiseach's face, another a placard saying 'Burn the Bonds not the Billions', walked into the background of the shot, close to the interviewee.

Two of the individuals moved about, talking to each other. The third person initially held the placard in full vision to one side of the shot and then moved to hold it directly behind the interviewee's head, where its wording was partially obscured. At this point, the presenter said: "*I'll tell you what, Ronan, I'm going to stop that there because the idiots behind you are a bit of a distraction so we'll try and get rid of those and come back to you if we can.*"

## Broadcasting Complaints Decisions

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The broadcaster states that the production decision to abandon the interview was done in the interests of the safety of the interviewee and crew in a situation which had become unpredictable and potentially uncontrollable and also having judged that the behaviour of the individuals in the background was so distracting as to make the interview valueless to the viewer.

In conveying the decision, the presenter's frustration at having to cut short the interview was unfortunately and spontaneously expressed in the use of one word – "idiots" – in an otherwise factual statement.

The broadcaster states that a viewing of the item makes it clear that:

- The individuals who entered shot were not engaged in an organised protest but were making improvised use of the live broadcast to appear on national television. Their behaviour was therefore unpredictable and, on a busy city street, potentially hazardous. RTÉ news reports, live and otherwise, frequently include in shot organised protests behind reporter and/or interviewees. This was not such a protest.
- While their point of view was conveyed to some extent by the presence of the placard stating 'Burn the Bonds not the Billions', it was the distracting nature of the individuals' movements, including talking to each other and holding the placard behind the interviewee's head, which obliged the abandoning of the interview.
- The presenter's use of the term "idiots" was in reference to the behaviour of the individuals who had entered the shot and caused the termination of the interview, not to their point of view, insofar as it was discernible. There was no reference to a topic which is the subject of the Broadcasting Act 2009 or of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

The following day, 28 November, a statement was issued by the Communications Manager of RTÉ News & Current Affairs on behalf of Mr. Dobson which stated:

*"I never meant to cause offence with my remarks last night which were in reference to the interruption of interview during a live broadcast rather than the topic of any protest."*

### Decision of the Compliance Committee

The Committee considered the broadcast and the submissions from the broadcaster and the complainant. Following its review of the material provided the Committee has decided to reject the complaint. In reaching this decision, the Committee had regard to the following:-

- The programme item in question was linked to rises in property prices, in particular in the Dublin area. It entailed a live interview between the presenter, who was in the studio, and an economist standing outside Government buildings, about the reasons for this price rise. In this context, the Committee noted that the interview was not discussing the issue of the 'bailout' of the Irish economy, the issue that the protesters standing behind the interviewee were focused on, nor was the interview intended in any way as coverage of a protest. Hence, the actions of the protestors could not be considered as the matter of news and current affairs that constituted the subject of the broadcast;

## Broadcasting Complaints Decisions

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- The Committee noted that the protestors entered the camera shot after the interview had commenced, moved during the interview and could be heard talking. Accordingly the presenter/production team was required to react to their presence and make a judgment call as to whether to proceed with the interview in a situation where the protestors were a prominent part of the shot, positioned as they were directly behind the interviewee;
- Editorial decisions taken during live or pre-recorded interviews are a matter for the broadcaster. In this instance, the presenter/production team evidently believed that the presence of the protestors in close proximity to the interview was interfering with the conduct of the interview and chose to end the interview as a result. A decision such as this rests solely and appropriately with the broadcaster. In this regard, the Committee noted that the presenter clearly linked the decision to end the interview with what he considered to be the 'distraction' being caused by the protestors;
- The Committee was of the view that the presenter could have handled the situation in a better manner and avoided the use of the term "idiots" to describe the protestors. However, on viewing the broadcast, the Committee was of the opinion that the term used arose out of frustration at the distraction that he reasonably believed the protestors were causing and could not be seen as a comment on the message that the protestors wished to communicate;
- In reaching this decision, the Committee had regard to the fact that the presenter's use of the term "idiots" was clearly linked to his description of the presence of the protestors as a distraction. The Committee also had regard to the fact that the interview in question was unrelated to the message of the protestors and that the presenter was clearly dealing with a technical issue linked to, as he saw it, the disruption in the quality of the interview being broadcast live. The actions of the protestors did not constitute the subject matter of the interview and the comments by the presenter upon those actions were therefore not subject to the relevant regulations regarding news and current affairs broadcasting. In view of this, the Committee did not agree with the complainant that the presenter was expressing his own views such that a partisan position was being advocated, contrary to the requirements of section 4.22 of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*;
- In summary, it is the view of the Committee that the presenter's comments could not be considered to infringe broadcasting rules on fairness, objectivity and impartiality as set out in the Broadcasting Act or the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*. Accordingly, the complaint has been rejected.



## Broadcasting Complaints Decisions

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**Complaint made by: Mr. Tony Cronin**

**Ref. No. 109/13**

**Station:**

RTÉ One

**Programme:**

6.01 News

**Date:**

27 November 2013

**Complaint Summary:**

Mr. Cronin's complaint is submitted under the Broadcasting Act 2009, Sections 48(1)(a) *fairness, objectivity and impartiality in current affairs*, under the *Code of Fairness, Objectivity and Impartiality*: Rules 4.1, 4.2 and 4.22 and the *Code of Programme Standards*: sections 2.1, 2.2, 3.4, 3.5.

The complainant refers to comments made by the presenter as he cut short an interview early when one or two members of a protest group silently held up placards to the camera. The complainant claims that the presenter said that he was ending the interview because of "those idiots". The complainant states that while there were a number of protesters behind the person being interviewed, in his opinion they were not in any way interfering with the interview. He states that they remained silent and dignified while holding up their placards. The complainant states that he was one of several hundred people who took part in the protest in support of the Ballyhea anti-austerity group on whose behalf a number of left-wing T.D.s were sponsoring a motion in the Dáil that day.

The complainant states that people have a right to protest and have their voices heard and not to be referred to as "idiots" by the programme presenter. He believes the behaviour of the presenter was both ignorant and insulting and he requests that an apology be made personally by the presenter.

**Broadcaster's Response:**

**Initial response to complainant:**

RTÉ states that the presenter was interviewing an economist, Ronan Lyons, outside Government buildings when a number of protesters walks into shot behind him during live transmission and began moving about. The studio team believed the result was very distracting and made the interview difficult to follow for the audience. RTÉ is also obliged to consider the welfare of the guest/correspondent and cameraman in situations like this. A decision was taken to conclude the interview earlier than planned and the presenter communicated this. He then made an off the cuff remark caused by the frustration of having to cut the interview short. His remark was solely about the interruption to the live broadcast and was not in any way a reference to the subject of the protest or the right of people generally to protest. RTÉ was not in any way trying to muzzle the protest by pulling out of the broadcast early. The broadcaster states that the comment came in the heat of the moment but RTÉ accepts it would be better if the remark had not been made.

**Response to BAI:**

RTÉ states that approximately 80 seconds into this live interview, from a position on Merrion Street across the road from Government Buildings, three people, one carrying a cut-out mask of the Taoiseach's face, another a placard saying 'Burn the Bonds not the Billions', walked into the background of the shot, close to the interviewee.

## Broadcasting Complaints Decisions

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Two of the individuals moved about, talking to each other. The third person initially held the placard in full vision to one side of the shot and then moved to hold it directly behind the interviewee's head, where its wording was partially obscured.

At this point, the presenter said: *"I'll tell you what, Ronan, I'm going to stop that there because the idiots behind you are a bit of a distraction so we'll try and get rid of those and come back to you if we can."*

The broadcaster states that the production decision to abandon the interview was done in the interests of the safety of the interviewee and crew in a situation which had become unpredictable and potentially uncontrollable and also having judged that the behaviour of the individuals in the background was so distracting as to make the interview valueless to the viewer.

In conveying the decision, the presenter's frustration at having to cut short the interview was unfortunately and spontaneously expressed in the use of one word – "idiots" – in an otherwise factual statement.

The broadcaster states that a viewing of the item makes it clear that:

- The individuals who entered shot were not engaged in an organised protest but were making improvised use of the live broadcast to appear on national television. Their behaviour was therefore unpredictable and, on a busy city street, potentially hazardous. RTE news reports live and otherwise, frequently include in shot organised protests behind reporter and/or interviewees. This was not such a protest.
- While their point of view was conveyed to some extent by the presence of the placard stating 'Burn the Bonds not the Billions', it was the distracting nature of the individuals' movements, including talking to each other and holding the placard behind the interviewee's head, which obliged the abandoning of the interview.
- The presenter's use of the term "idiots" was in reference to the behaviour of the individuals who had entered the shot and caused the termination of the interview, not to their point of view, insofar as it was discernible. There was no reference to a topic which is the subject of the Broadcasting Act 2009 or of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

The following day, 28 November, a statement was issued by the Communications Manager of RTE News & Current Affairs on behalf of Mr. Dobson which stated:

*"I never meant to cause offence with my remarks last night which were in reference to the interruption of interview during a live broadcast rather than the topic of any protest."*

This statement was widely reported in the national media.

## Broadcasting Complaints Decisions

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RTÉ reiterates its regret of the impromptu use of the term “idiots” in relation to the improvised behaviour on camera of three people during a live interview from outside the Merrion Hotel in Dublin. However, it does not believe that the use of that term represents an offence against commonly held standards in contemporary Irish society; that it occasioned undue offence or harm to viewers of *The Six One News*; that the individuals referred to were discriminated against in any way or were represented in an inappropriate or unjustified way, not least because their behaviour was of their own choosing and neither mediated nor influenced by RTÉ; or that the use of the term, while regrettable, was so egregious as to breach Section 3.5 in respect of human dignity, distress or offence or in any other way.

### Decision of the Compliance Committee

The Committee considered the broadcast and the submissions from the broadcaster and the complainant. Following its review of the material provided the Committee has decided to reject the complaint. In reaching this decision, the Committee had regard to the following:-

- The programme item in question was linked to rises in property prices, in particular in the Dublin area. It entailed a live interview between the presenter, who was in the studio, and an economist standing outside Government buildings, about the reasons for this price rise. In this context, the Committee noted that the interview was not discussing the issue of the ‘bailout’ of the Irish economy (the issue that the protesters standing behind the interviewee were focused on). The interview was also not discussing the Bill being discussed in Dáil Éireann on the evening of the interview and was also not intended in any way as coverage of a protest. Hence, the actions of the protestors could not be considered as the matter of news and current affairs that constituted the subject of the broadcast;
- The Committee noted that the protestors entered the camera shot after the interview had commenced, moved during the interview and could be heard talking. Accordingly the presenter/production team was required to react to their presence and make a judgment call as to whether to proceed with the interview in a situation where the protestors were a prominent part of the shot, positioned as they were directly behind the interviewee;
- Editorial decisions taken during live or pre-recorded interviews are a matter for the broadcaster. In this instance, the presenter/production team evidently believed that the presence of the protestors in close proximity to the interview was interfering with the conduct of the interview and chose to end the interview as a result. A decision such as this rests solely and appropriately with the broadcaster. In this regard, the Committee noted that the presenter clearly linked the decision to end the interview with what he considered to be the ‘distraction’ being caused by the protestors;
- The Committee was of the view that the presenter could have handled the situation in a better manner and avoided the use of the term “idiots” to describe the protestors. However, on viewing the broadcast, the Committee was of the opinion that the term used arose out of frustration at the distraction that he reasonably believed the protestors were causing and could not be seen as a comment on the message that the protestors wished to communicate;

## Broadcasting Complaints Decisions

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- In reaching this decision, the Committee had regard to the fact that the presenter's use of the term "idiots" was clearly linked to his description of the presence of the protestors as a distraction. The Committee also had regard to the fact that the interview in question was unrelated to the message of the protestors and that the presenter was clearly dealing with a technical issue linked to, as he saw it, the disruption in the quality of the interview being broadcast live. The actions of the protestors did not constitute the subject matter of the interview and the presenter's comments upon those actions were therefore not subject to the relevant regulations regarding news and current affairs broadcasting. In view of this, the Committee did not agree with the complainant that the presenter was expressing his own views such that a partisan position was being advocated, contrary to the requirements of section 4.22 of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*;
- In summary, it was the opinion of the Committee that the presenter's comments could not be considered to infringe broadcasting rules on fairness, objectivity and impartiality as set out in the Broadcasting Act or the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*;
- Having regard to the above points, the Committee did not agree with the complainant that the presenter's comment infringed the rules of the *BAI Code of Programme Standards* in respect of commonly held standards, protection of groups and individuals in society or factual programming. Accordingly, all aspects of the complaint have been rejected.

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**Complaint made by: Ms. Pamela Flynn**

**Ref. No. 110/13**

**Station:**

RTÉ One

**Programme:**

6.01 News

**Date:**

27 November 2013

**Complaint Summary:**

Ms. Flynn's complaint is submitted under the Broadcasting Act 2009, 48(1)(a) *fairness, objectivity and impartiality in current affairs*) and the BAI Code of Fairness, Objectivity and Impartiality- Rules 4.1, 4.2 and 4.22.

The complainant refers to comments made by the presenter when he referred to protesters, who could be seen in the background during an interview, as "idiots". The complainant wonders if protesters are now not allowed to protest or is it just that RTÉ does not allow footage to be shown of people calling for Bondholders to be "burned".

**Broadcaster's Response:**

**Initial response to complainant:**

RTÉ states that the presenter was interviewing an economist, Ronan Lyons, outside Government buildings when a number of protesters walks into shot behind him during live transmission and began moving about. The studio team believed the result was very distracting and made the interview difficult to follow for the audience. RTÉ is also obliged to consider the welfare of the guest/correspondent and cameraman in situations like this. A decision was taken to conclude the interview earlier than planned and the presenter communicated this. He then made an off the cuff remark caused by the frustration of having to cut the interview short. His remark was solely about the interruption to the live broadcast and was not in any way a reference to the subject of the protest or the right of people generally to protest. The comment came in the heat of the moment but RTÉ accepts it would be better if the remark had not been made.

**Response to BAI:**

RTÉ states that approximately 80 seconds into this live interview, from a position on Merrion Street across the road from Government Buildings, three people, one carrying a cut-out mask of the Taoiseach's face, another a placard saying 'Burn the Bonds not the Billions', walked into the background of the shot, close to the interviewee.

Two of the individuals moved about, talking to each other. The third person initially held the placard in full vision to one side of the shot and then moved to hold it directly behind the interviewee's head, where its wording was partially obscured.

At this point, the presenter said: "*I'll tell you what, Ronan, I'm going to stop that there because the idiots behind you are a bit of a distraction so we'll try and get rid of those and come back to you if we can.*"

## Broadcasting Complaints Decisions

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The broadcaster states that the production decision to abandon the interview was done in the interests of the safety of the interviewee and crew in a situation which had become unpredictable and potentially uncontrollable and also having judged that the behaviour of the individuals in the background was so distracting as to make the interview valueless to the viewer.

In conveying the decision, the presenter's frustration at having to cut short the interview was unfortunately and spontaneously expressed in the use of one word – "idiots" – in an otherwise factual statement.

The broadcaster states that a viewing of the item makes it clear that:

- The individuals who entered shot were not engaged in an organised protest but were making improvised use of the live broadcast to appear on national television. Their behaviour was therefore unpredictable and, on a busy city street, potentially hazardous. RTE news reports, live and otherwise, frequently include in shot organised protests behind reporter and/or interviewees. This was not such a protest.
- While their point of view was conveyed to some extent by the presence of the placard stating 'Burn the Bonds not the Billions', it was the distracting nature of the individuals' movements, including talking to each other and holding the placard behind the interviewee's head, which obliged the abandoning of the interview.
- The presenter's use of the term "idiots" was in reference to the behaviour of the individuals who had entered the shot and caused the termination of the interview, not to their point of view, insofar as it was discernible. There was no reference to a topic which is the subject of the Broadcasting Act 2009 or of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

The following day, 28 November, a statement was issued by the Communications Manager of RTE News & Current Affairs on behalf of Mr. Dobson which stated:

*"I never meant to cause offence with my remarks last night which were in reference to the interruption of interview during a live broadcast rather than the topic of any protest."*

### Decision of the Compliance Committee

The Committee considered the broadcast and the submissions from the broadcaster and the complainant. Following its review of the material provided the Committee has decided to reject the complaint. In reaching this decision, the Committee had regard to the following:-

- The programme item in question was linked to rises in property prices, in particular in the Dublin area. It entailed a live interview between the presenter, who was in the studio, and an economist standing outside Government buildings, about the reasons for this price rise. In this context, the Committee noted that the interview was not discussing the issue of the 'bailout' of the Irish economy, the issue that the protesters standing behind the interviewee were focused on, nor was the interview intended in any way as coverage of a protest. Hence, the actions of the protestors could not be considered as the matter of news and current affairs that constituted the subject of the broadcast;

## Broadcasting Complaints Decisions

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- The Committee noted that the protestors entered the camera shot after the interview had commenced, moved during the interview and could be heard talking. Accordingly the presenter/production team was required to react to their presence and make a judgment call as to whether to proceed with the interview in a situation where the protestors were a prominent part of the shot, positioned as they were directly behind the interviewee;
- Editorial decisions taken during live or pre-recorded interviews are a matter for the broadcaster. In this instance, the presenter/production team evidently believed that the presence of the protestors in close proximity to the interview was interfering with the conduct of the interview and chose to end the interview as a result. A decision such as this rests solely and appropriately with the broadcaster. In this regard, the Committee noted that the presenter clearly linked the decision to end the interview with what he considered to be the 'distraction' being caused by the protestors;
- The Committee was of the view that the presenter could have handled the situation in a better manner and avoided the use of the term "idiots" to describe the protestors. However, on viewing the broadcast, the Committee was of the opinion that the term used arose out of frustration at the distraction that he reasonably believed the protestors were causing and could not be seen as a comment on the message that the protestors wished to communicate;
- In reaching this decision, the Committee had regard to the fact that the presenter's use of the term "idiots" was clearly linked to his description of the presence of the protestors as a distraction. The Committee also had regard to the fact that the interview in question was unrelated to the message of the protestors and that the presenter was clearly dealing with a technical issue linked to, as he saw it, the disruption in the quality of the interview being broadcast live. The actions of the protestors did not constitute the subject matter of the interview and the presenter's comments upon those actions were therefore not subject to the relevant regulations regarding news and current affairs broadcasting. In view of this, the Committee did not agree with the complainant that the presenter was expressing his own views such that a partisan position was being advocated, contrary to the requirements of section 4.22 of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*;
- In summary, it is the Committee's opinion that the presenter's comments could not be considered to infringe broadcasting rules on fairness, objectivity and impartiality as set out in the Broadcasting Act or the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*. Accordingly, the complaint has been rejected.

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**Complaint made by: Mr. Alan Lawes**

**Ref. No. 2/14**

**Station:**

RTÉ One

**Programme:**

6.01 News

**Date:**

27 November 2013

**Complaint Summary:**

Mr. Lawes complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a) *fairness, objectivity and impartiality in current affairs*) and under the BAI Code of Fairness, *Objectivity and impartiality - Rules 4.1 and 4.2*

The complainant refers to comments made by the presenter during this programme. The complainant states that the presenter referred to the protestors, who were silently holding a placard up in the distance during a live broadcast, as “idiots”. The complainant further states that these protestors were there to hear their own Bill by the Ballyhea group, being put to the Dáil by the independent TDs in the Technical Group. The complainant believes the presenter’s comments belittled their extremely important cause which was still being discussed and could have influenced the outcome of the live debate by his negative comments.

**Broadcaster’s Response:**

**Initial response to complainant:**

RTÉ states that the presenter was interviewing an economist, Ronan Lyons, outside Government buildings when a number of protestors walks into shot behind him during live transmission and began moving about. The studio team believed the result was very distracting and made the interview difficult to follow for the audience. RTÉ is also obliged to consider the welfare of the guest/correspondent and cameraman in situations like this. A decision was taken to conclude the interview earlier than planned and the presenter communicated this. He then made an off the cuff remark caused by the frustration of having to cut the interview short. His remark was solely about the interruption to the live broadcast and was not in any way a reference to the subject of the protest or the right of people generally to protest. The comment came in the heat of the moment but RTÉ accepts it would be better if the remark had not been made.

**Response to BAI:**

RTÉ states that approximately 80 seconds into this live interview, from a position on Merrion Street across the road from Government Buildings, three people, one carrying a cut-out mask of the Taoiseach’s face, another a placard saying ‘Burn the Bonds not the Billions’, walked into the background of the shot, close to the interviewee. Two of the individuals moved about, talking to each other. The third person initially held the placard in full vision to one side of the shot and then moved to hold it directly behind the interviewee’s head, where its wording was partially obscured. At this point, the presenter said: “*I’ll tell you what, Ronan, I’m going to stop that there because the idiots behind you are a bit of a distraction so we’ll try and get rid of those and come back to you if we can.*”



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The broadcaster states that the production decision to abandon the interview was done in the interests of the safety of the interviewee and crew in a situation which had become unpredictable and potentially uncontrollable and also having judged that the behaviour of the individuals in the background was so distracting as to make the interview valueless to the viewer.

In conveying the decision, the presenter's frustration at having to cut short the interview was unfortunately and spontaneously expressed in the use of one word – "idiots" – in an otherwise factual statement.

The broadcaster states that a viewing of the item makes it clear that:

- The individuals who entered shot were not engaged in an organised protest but were making improvised use of the live broadcast to appear on national television. Their behaviour was therefore unpredictable and, on a busy city street, potentially hazardous. RTE news reports (live and otherwise), frequently include in shot organised protests behind reporter and/or interviewees. This was not such a protest.
- While their point of view was conveyed to some extent by the presence of the placard stating 'Burn the Bonds not the Billions', it was the distracting nature of the individuals' movements, including talking to each other and holding the placard behind the interviewee's head, which obliged the abandoning of the interview.
- The presenter's use of the term "idiots" was in reference to the behaviour of the individuals who had entered the shot and caused the termination of the interview, not to their point of view, insofar as it was discernible. There was no reference to a topic which is the subject of the Broadcasting Act 2009 or of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

The following day, 28 November, a statement was issued by the Communications Manager of RTE News & Current Affairs on behalf of Mr. Dobson which stated:

*"I never meant to cause offence with my remarks last night which were in reference to the interruption of interview during a live broadcast rather than the topic of any protest."*

### Decision of the Compliance Committee

The Committee considered the broadcast and the submissions from the broadcaster and the complainant. Following its review of the material provided the Committee has decided to reject the complaint. In reaching this decision, the Committee had regard to the following:-

- The programme item in question was linked to rises in property prices, in particular in the Dublin area. It entailed a live interview between the presenter, who was in the studio, and an economist standing outside Government buildings, about the reasons for this price rise. In this context, the Committee noted that the interview was not discussing the issue of the 'bailout' of the Irish economy (the issue that the protesters standing behind the interviewee were focused on). The interview was also not discussing the Bill being discussed in Dáil Éireann on the evening of the interview and was also not intended in any way as coverage of a protest;

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Hence, the actions of the protestors could not be considered as the matter of news and current affairs that constituted the subject of the broadcast;

- The Committee noted that the protestors entered the camera shot after the interview had commenced, moved during the interview and could be heard talking. Accordingly the presenter/production team was required to react to their presence and make a judgment call as to whether to proceed with the interview in a situation where the protestors were a prominent part of the shot, positioned as they were directly behind the interviewee, and not at a distance as contended by the complainant;
- Editorial decisions taken during live or pre-recorded interviews are a matter for the broadcaster. In this instance, the presenter/production team evidently believed that the presence of the protestors in close proximity to the interview was interfering with the conduct of the interview and chose to end the interview as a result. A decision such as this rests solely and appropriately with the broadcaster. In this regard, the Committee noted that the presenter clearly linked the decision to end the interview with what he considered to be the 'distraction' being caused by the protestors;
- The Committee was of the view that the presenter could have handled the situation in a better manner and avoided the use of the term "idiots" to describe the protestors. However, on viewing the broadcast, the Committee was of the opinion that the term used arose out of frustration at the distraction that he reasonably believed the protestors were causing and could not be seen as a comment on the message that the protestors wished to communicate;
- In reaching this decision, the Committee had regard to the fact that the presenter's use of the term "idiots" was clearly linked to his description of the presence of the protestors as a distraction. The Committee also had regard to the fact that the interview in question was unrelated to the message of the protestors and that the presenter was clearly dealing with a technical issue linked to, as he saw it, the disruption in the quality of the interview being broadcast live. The actions of the protestors did not constitute the subject matter of the interview the presenter's comments upon those actions were therefore not subject to the relevant regulations regarding news and current affairs broadcasting. As such, the presenter's comment was not viewed by the Committee as those that might belittle the content of a Bill being discussed that evening in Dáil Éireann (and which provided the context for the presence of the protestors) or would be likely to influence the outcome of the Dáil debate;
- In view of the above, it was the Committee's view that the presenter's comments could not be considered to infringe broadcasting rules on fairness, objectivity and impartiality as set out in the Broadcasting Act or the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs*. Accordingly, the complaint has been rejected.

### Resolved at Executive Complaints Forum

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

**Ref. No.** 111/13

**Station:**

RTÉ Radio 1

**Programme:**

Mooney

**Date:**

12 November 2013

**Complaint Summary:**

Mr. Flynn's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b) and the *Code of Programme Standards*: sections 2.2 (due care) and 2.3 (protection for children).

The complainant states that at around 4pm there was a broadcast on the treatment and detection of Sexually Transmitted Diseases (STDs). He states that during this item the reporter accompanied a man to an STD Clinic where he was being examined for STDs. He states that both the man and the medical practitioner were interviewed and discussed in detail the physical symptoms of STDs and the invasive techniques used to assess whether an STD was prevalent. The complainant found this content to be wholly inappropriate for both the show and for the timeslot. He states it has to be borne in mind that the *Mooney* show is a family show which often covers children's topics. In this regard, he cites a recent programme that included a drawing competition for children and another featuring a competition for schools where both teachers and children were interviewed. He also states that the programme, in conjunction with its Friday guise 'Mooney Goes Wild', covered many topics aimed at children and schools. In view of this, he states that it is 100% safe to assume that many children of a primary school age would be listening to the programme and that content such as that about which his complaint is concerned was therefore inappropriate.

In addition, the complainant states that at the end of the piece, the presenter inquired as to whether the interviewee practiced 'Safe Sex' with a condom, upon which the man stated that he did not. The complainant states that the man in the report said that both he and his partner had discussed the use of a condom and decided that both were happy to have unprotected sex. The complainant states, in his opinion, the programme item endorsed this decision. The complainant further states that the presenter then informed listeners that the man in question has HIV/AIDS.

Finally, the complainant states that the presenter justified the piece by saying it was done as a public health matter. While agreeing that it may be a public health matter, the complainant questions whether it was a suitable health topic for a programme targeted at all of the family, including children. The complainant also states that the presenter also justified it by saying that he gave two warnings in advance of playing the interview and recording. The complainant states that he missed the warnings at the start of the programme.

**Broadcaster's Response:**

**Initial response to complainant:**

RTÉ acknowledged Mr. Flynn's complaint and said they would follow it up within twenty working days. This further response was not forthcoming.

### Response to BAI:

RTÉ states listeners to *Mooney* will be aware of its varied editorial agenda, ranging from light entertainment to all kinds of sensitive, controversial and even taboo topics. For example, recent subjects in the latter categories have included:

- The devil and exorcism
- Divorce and family relationships
- A woman dying of cancer preparing her children for her death
- Euthanasia
- Taking the “Christ” out of Christmas.

The broadcaster states that the audience for *Mooney* is predominantly adult with older adults being in the majority. The most recent data from the JNLR (Oct 2012 to Sept 2013) indicates the composition of the audience as:

- 63% of the audience is aged over 55
- 31% aged between 35 and 54
- 6% aged between 15 and 34.

The broadcaster states that the item complained of was occasioned by National Sexual Health Awareness Week (SHAW). It consisted of an interview with a consultant in Genitourinary and HIV Medicine, St. James Hospital, a spokesperson for SHAW, and a recording of a consultation by the consultant with a patient suffering from HIV. The broadcaster also states that although its editorial format and agenda is aimed at an adult and not a children’s audience, the *Mooney* production team is aware of the possibility of children being present when their adult carers are listening. For that reason, as well as the possibility of certain adult listeners preferring not to engage with the topic, two clear warnings were given in advance of the item. The first warning was given before the *Nuacht* bulletin which preceded the item, the second immediately after *Nuacht* and before the commercial break which led into the item.

In keeping with Content Principles 2.2 and 2.3 of the *BAI Code of Programme Standards*, due care to protect the audience from undue offence and from harm and to protect children from exposure to inappropriate material was exercised through the use of these prior warnings.

The broadcaster states that for older teenagers in the programme’s 15-34 listenership, the item would have served to educate in a responsible manner, echoing the theme of this year’s SHAW that “honest, supportive and inclusive communication is vital when it comes to our sexual health and sexuality.”

And in keeping with the programme’s audience profile, the issue of sexual health for the over-50s – including residents in care homes – was explored, as was the non-use of condoms by a HIV sufferer in encounters with a consenting adult, in both cases highlighting the importance of personal responsibility in all consenting relationships.

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In addition, the broadcaster states that the handling of the topic was responsible and not at all sensational or gratuitously graphic. It included a direct exploration of the prevalence of sexually transmitted infections, the drugs and treatments available, the general prognosis for those who seek help and the public health challenges involved. The references to “discharge from penis” and “back passage”, paraphrased in the complaint, occurred during the recorded consultation between doctor and patient and were entirely in the context of a responsible clinical conversation without undue attention being drawn to them. Had the carers of children not already decided that the item was unsuitable listening, it is extremely doubtful that any such children would have understood the medical terminology used in a matter-of-fact manner.

The broadcaster states that following the interview, the presenter read out a number of texts from listeners – some critical of the inclusion of the item, others complimentary, reflecting accurately the balance of negative and positive comment received. He did so with a characteristic lightness of touch and reiterating the non-judgemental standpoint of a consultant but did not make fun of those who objected to the item; indeed at one point, in response to a text criticising the objectors, he supported their entitlement to do so.

The broadcaster states that this item on a national health initiative was an important piece of public service broadcasting, helping to demystify questions around STIs and bringing to public attention the fact that clinicians are non-judgemental and thus encouraging patients to tell the truth in what are notoriously difficult, personal, intimate and secret matters with considerable social and public health repercussions.

### Decision of the Executive Complaint Forum

When considering the complaint, the members of the Forum reviewed the broadcast, the submissions of the complainant and the broadcaster. The Forum also had regard to the Broadcasting Act 2009, section 48(1)(b) Harm & Offence: (*Code of Programme Standards* – sections 2.2 (due care) and 2.3 (protection of children)).

The complaint relates to a broadcast on the treatment and detection of Sexually Transmitted Diseases (STDs). The complainant stated that during the item, a reporter accompanied a man to an STD Clinic where he was being examined and both he and the medical practitioner were interviewed. The items discussed detailed the physical symptoms of STDs and the invasive techniques used. The complainant found the content to be wholly inappropriate for both the show and for the timeslot. The complainant further stated that it has to be borne in mind that the *Mooney* show is a family show which often covers children’s topics.

Following a discussion, the Forum was of the view that the broadcast was an educational public service piece, broadcast during Sexual Awareness Week, which looked at health issues in relation to sexually transmitted diseases. There were two warnings at the top of the programme; before Nuacht and again afterwards.

The programme was clear on what the topic was about throughout the broadcast and the subject of the interview was well flagged. The content was not overly detailed. It was also felt that the method of presentation was not as explicit as the complainant had stated. The programme was broadcast between 3 - 4pm, but given the clear warnings provided, parents would have been aware throughout the broadcast of the nature and content of the show.

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Although there may have been children among the audience, many would be passive listeners and therefore, much of the discussion would have gone over their heads.

The Forum also had regard to the matter of audience expectation in which a wide range of topics are covered on *Mooney*. Given all of the above, the Forum was of the view that the complaint did not raise issues that required further consideration, and accordingly, the complaint did not require further investigation.

