



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

Broadcasting Authority of Ireland

Broadcasting Complaint Decisions

August 2014

Broadcasting Complaint Decisions

Broadcasting Complaint Decisions

Under the Broadcasting Act 2009, viewers and listeners can complain about broadcasting content which they believe is not in keeping with broadcasting codes and rules. In line with the complaint process, the viewer or listener should direct their complaint to the broadcaster in the first instance with regard to the broadcaster's *Code of Practice for Handling Complaints*, a document which each broadcaster has available on its website. If a viewer or listener is not satisfied with the response from the broadcaster or if the broadcaster does not respond within the timeframe provided for in their *Code of Practice* (usually 21 days), then the viewer or listener can refer the complaint to the BAI for consideration.

In assessing complaints, and having regard to the codes and rules, the BAI considers all written material submitted by the relevant parties together with the broadcast material. Complaints are assessed at Executive level and/or by the Compliance Committee of the Authority. The details of the broadcasting complaints decisions reached by the BAI are set out in this document.

At its meeting held in June 2014, the Compliance Committee upheld one complaint, upheld one complaint *in part* and rejected eleven complaints. Two complaints were resolved by the Executive at meetings held in March and July.

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Upheld by BAI Compliance Committee

Complaint made by: Mr. Dónal O’Sullivan-Latchford on behalf of Family and Media Association **Ref. No. 54/14**

<u>Station:</u>	<u>Programme:</u>	<u>Date:</u>
RTÉ One	Mooney	20 th January 2014

Complaint Summary:

Mr. O’Sullivan-Latchford’s complaint is submitted on behalf of Family and Media Association under the Broadcasting Act 2009, 48(2)(a) (*fairness, objectivity & impartiality in current affairs and Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1 and 22*).

The complainant states that in the course of an item introduced as “*following news today that over two and a half thousand gay people legally got hitched since 2011, we ask, ‘what next for gay couples in Ireland?’*” both guests, Mr. Michael Murphy and Mr. Tiernan Brady of the Gay and Lesbian Equality Network (GLEN) and also the presenter, made several statements implicitly and explicitly supporting same-sex marriage. The complainant states that no voices were heard opposing same-sex marriage and that the programme presenter openly expressed his own views stating “*I hope you do get gay marriage...I hope it does come in*”.

The complainant claims that same-sex marriage is supposed to be the matter of debate in an upcoming referendum. The complainant states that this debate should not be pre-empted by an unbalanced programme or by the direct expression of a personal opinion on the matter by the presenter, which the complainant believes, appears to be in breach of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1 and 22*.

The complainant claims that in RTÉ’s initial reply, there was a suggestion that a comment by one of the guests, Mr. Michael Murphy was indicative of balance. The complainant believes however, that Mr. Murphy’s confession to only recently “*beginning to be persuaded*” that same-sex marriage is a “*civil rights issue*”, is something which would have helped to persuade any wavering listeners to come down on the side of support for same-sex marriage and not against. The complainant claims that this incident only served to highlight the one-sidedness of the discussion which amounted, in his opinion, to a debate where one side was forcibly absent.

The complainant also refers to RTÉ’s point that the item was broadcast “*at least 12 months in advance of the referendum*” and claims that this refers to Rule 27 and does not affect the requirement that “*a presenter and /or a reporter on a current affairs programme shall not express his or her own views on matters that are either of public controversy or the subject of current public debate such that a partisan position is advocated*”

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Broadcaster's Response:

Initial response to complainant:

RTÉ states that this item marked the release of figures for the number of civil partnerships which had taken place in the year since legislation was introduced. The broadcaster states that Mr. Michael Murphy was in the studio to tell his story as one of the first people in the country to “*tie the knot*” and Mr. Tiernan Brady from GLEN (Gay and Lesbian Equality Network) was there to give the wider perspective.

RTÉ state that in changing times in a developing society, giving voice to the expression of diverse views is central to a responsible, uncensored media. Discussion around the rights of gay people and exploration of their life experience is part of RTÉ's duty as a national broadcaster to ensure proper reflection of the diversity of Ireland and its people. It does not automatically follow that every examination of this area should turn into a debate about the rights and wrongs or otherwise of homosexuality and gay marriage. Furthermore, RTÉ state that rather than actively promoting gay marriage, Michael Murphy confessed to only recently “*beginning to be persuaded*” that it is a “*civil rights issue*”.

RTÉ state that Mooney is a personality-driven light entertainment programme which deals with all kinds of serious issues with a lightness of touch. As with all personality-driven radio, some of the presenter's opinions, views and tastes will be aired in the course of the programme. Derek Mooney regularly expresses his opinion that people should have the right to believe and to practice whatever they like as long as it does not hurt or interfere with other people's rights.

In the pending period running up to a referendum, broadcasters are bound by strict guidelines as to impartiality and balance. RTÉ claim this item was broadcast at least 12 months in advance of the referendum – the date of which has yet to be announced.

Response to BAI:

RTÉ states that the aspect of the conversation which is the subject of complaint was prompted by the release of figures for the number of civil partnerships (2,600) which had taken place in Ireland since the first ceremonies in 2011. The broadcaster states that Mr. Michael Murphy was in studio to tell his story as one of the first people in the country to enter into a civil partnership and Mr. Tiernan Brady of the Gay and Lesbian Equality Network was there to give the wider perspective of the gay community.

The broadcaster states that the item complained of was not a debate on the topic of same-sex marriage and was not presented as such. Listeners were clearly advised of the nature of the discussion, which was of the experience of civil partnership, from a personal viewpoint by Mr. Murphy, and on a more communal level by Mr. Tiernan Brady.

The broadcaster states that the conversation included the then-approaching legalisation in England and Wales of same-sex marriage and the possibility of a referendum on the subject in Ireland. The exchange did not take place in the context of such a referendum, which has not yet been called, and was not a debate on the topic but a discussion with two gay men of their attitudes towards same-sex marriage as distinct from civil partnership, not assuming that they would favour it. In the latter context, one of the contributors said that he was only recently “*beginning to be persuaded*” that it is a “*civil rights issue*”.

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RTÉ believes that the discussion was a valid editorial acknowledgement of a milestone (the release of civil partnership figures) in social life in Ireland and a legitimate approach for an editorially independent broadcaster to take on this occasion, outside the context of public controversy or debate which might be occasioned by, for example, a referendum or the introduction of legislation. Therefore, RTÉ asserts that there was no breach of Rule 4.1 of the code.

In relation to Rule 4.22, the broadcaster states that again this item was not structured or presented to listeners or broadcast in the context of a public debate on same-sex marriage. Insofar as the presenter expressed tolerance for the right, as he sees it, for people to behave as they wish so long as it does not interfere with the rights of others, he was not intervening in or adopting a position on such a public debate.

RTÉ asserts that it is in the public interest and to the audience's advantage, for a broadcaster to have the editorial independence to explore and discuss social experience without the imposition of a confrontational format on every such occasion, particularly outside of the context of public debate on related topics.

Decision of the Compliance Committee:

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

- The discussion was undertaken in the context of recent figures released in respect of the number of same-sex couples who had entered Civil Partnerships since the relatively recent introduction of legislation. The Committee found that the discussion focused on broader issues arising from the introduction of the Civil Partnership legislation as well as the personal experiences of couples who had entered civil partnerships. The impact of the legislation on the LGBT community's sense of place in Irish society was also examined. The Committee also noted that as the programme developed it moved to a discussion on the issue of same-sex marriage and changes to possible future Irish law to permit such marriages.
- While the Committee noted that aspects of the programme were factual and of a human interest nature (particularly in respect to the personal experiences of the guest and of the legislative details and practical aspects of Civil Partnership), the discussion of same-sex marriage constituted current affairs content on an issue that was of current public debate and controversy. While agreeing that a referendum campaign is not currently underway, as a matter of current affairs, the general requirements for fairness, objectivity and impartiality in current affairs set down in the Broadcasting Act and the BAI's code on news and current affairs were applicable.
- Following its review of those aspects of the discussion on the topic of same-sex marriage, it was the view of the Committee that the requirements in respect of fairness, objectivity and impartiality in news and current affairs had not been met. In this regard, the Committee noted that the presenter invited views from his guests on a referendum to introduce same-sex marriage.

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It was evident from the broadcast that the programme guests favoured such a change on the grounds that it would, in their opinion, afford equal legal standing in Irish law for same-sex couples, and the presenter stated similar views. It was the view of the Committee that in the absence of alternative views on this topic, a matter of current public debate and controversy, the role of the presenter was to provide alternative perspectives to those of his guests and that this requirement was not met on this occasion.

- Taken together, it was the view of the Committee that this element of the programme discussion was not fair, objective or impartial and included the presenter making a statement in respect of changes in Irish law in respect of same-sex marriage that entailed the articulation of a partisan position on a matter of current affairs. Accordingly, the complaint has been upheld.

Upheld in Part by BAI Compliance Committee

Complaint made by: Ms. Leonie Fennell

Ref. No. 64/14

Station:

TV3

Programme:

A Search for Justice: Death in Bray

Date:

10th March 2014

Complaint Summary:

Ms. Fennell's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b) harm and offence (*Code Of Programme Standards*, sections 2.2.2 and 3.4.4, *Due Care and Persons and Groups in Society*).

The complaint concerns a broadcast of a documentary about the death of Mr. Sebastian Creane and the injury of others as a result of the actions of Mr. Shane Clancy, who died by suicide on the same night. Mr. Clancy is the complainant's son.

The complainant states that she was invited to take part in this documentary following a number of undertakings by the producer. The complainant states that the first undertaking was that there would be no reconstructions in the documentary. However, the complainant states that each moment of that night was reconstructed. The complainant claims that she was told on a number of occasions that she would be shown 'grabs' before the documentary aired. She states that this did not happen. The complainant states that footage of the back garden where her son died was also included in the documentary and that this footage was traumatic for her as she states that she had never seen where her son had died. The complainant states that she was assured by the producer that this content would be taken out of the broadcast and was assured there was nothing else that she was not aware of already included. However, the complainant states, additional footage was included of the complainant's son, one scene in Dunne's Stores and another in a chip shop in Dalkey. The complainant states that this was a callous, uncaring act, allowing her and her family to view the last hour of her son's life on a TV programme for what she describes as the amusement of TV3 viewers.

The complainant states that she was horrified to hear a Professor of Psychiatry, included in this programme, maintain that her son had left a journal that the complainant had not seen. The complainant states that this turned out not to be true and that viewers were misled by the references in the programme to this journal. The complainant states that she has serious concerns at the way the programme included what the complainant described as a diagnosis of her son with a psychiatric illness, despite the psychiatrist in question never having spoken to him when alive. The complainant further claims that this psychiatrist was also given free rein to dismiss another expert's opinion. The complainant states that the other expert included in the programme was not provided with the opportunity to answer these contradictions despite agreeing to do an after-show by video-link and answer any questions that arose.

The complainant states that she was disappointed that none of her son's friends were asked to appear on the programme to voice an objective opinion on her son's demeanour in his last few weeks.

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The complainant submitted several texts to the BAI between her and the producer of this programme which she states clearly show that she was supposed to have discretion as to whether she wanted to take part in this documentary. The complainant claims that the texts show that she was supposed to be provided with 'grabs' of the programme before it aired and she states that this did not happen.

The complainant requested that her part in the documentary be removed from the programme following a Tweet she saw on YouTube which showed footage of her son in Dunnes Stores. The complainant claims that she was assured all along that she was entitled to retract her part in the programme and this was the reason she agreed to take part in the first place.

Broadcaster's Response:

Initial response to complainant:

TV3 states that they had a number of exchanges with Ms. Fennell, both during production and in the run-up to broadcast of the programme. TV3 state that an apology will be sent directly to Ms. Fennell for their failure to acknowledge her email of complaint dated 13th March 2014. However, in the circumstance where the BAI is formally considering the complaint, TV3 believe it is best if they reserve their substantive response for this process.

Response to BAI:

TV3 state that it has the utmost sympathy for what the Clancy, Creane and Hannigan families have had to endure as a result of the tragic deaths of Mr. Sebastian Creane and Mr. Shane Clancy and has no desire to exacerbate the pain or suffering of anybody involved.

TV3 state that the purpose of the TV3 documentary was to tell the story of the night in question from the perspective of all involved - the Clancy, Creane and Hannigan families. At all times, TV3 and in particular, the producer, were keenly aware of the need to be fair to all parties involved.

TV3 state that the complainant was first approached about the documentary in January 2013 when Ms. Berry and Mr. Browne met with her to discuss the proposed documentary. At that meeting, Mr. Browne very clearly explained the aim of the documentary, namely to tell the story of the night in question and the build up to it through the experience of those involved, to deal with issues the Creane and Hannigan family had in relation to the Coroner Inquest into the death of Mr. Shane Clancy and the RTÉ interview given by the complainant, and also deal with the issue surrounding particular anti-depressant medication which the complainant has campaigned against.

The broadcaster states that the complainant declined to take part in the documentary after this meeting but when subsequently re-approached some months later she agreed to participate. An interview was conducted on the 14th September 2013 and on the same day the complainant signed a release form. After the interview, the complainant was given a full transcript of her interview and was told that if there were any inaccuracies in what she had said then these should be highlighted as soon as possible and they would not be used in the documentary. TV3 claim that the complainant never raised any issue with the transcripts of her interview from September 2013.

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The broadcaster states that the complainant alleges that she was given a number of undertakings by the producer as part of her agreement to participate. She states in her email of the 13th March 2014 that she was given a number of assurances:

i. That there would be no reconstruction in this documentary.

The broadcaster states that this is correct and there was no reconstruction in the documentary. It was, as had been explained to the complainant in January 2013, simply those involved in the events telling their individual stories.

ii. "I was told on a number of occasions that I would be shown 'grabs' before the documentary aired."

The broadcaster has provided the BAI with a number of text messages between the TV3 producer and the complainant. The broadcaster states that this text exchange was in relation to media briefs and media briefings in preparation for promotion of the documentary before it went to air. TV3 claim that it can be seen from the exchange that the complainant had enthusiastically agreed to do media interviews and on Friday 7th of March the producer sent 'the grabs' to the complainant to prepare her for an interview with Justine McCarthy of The Sunday Times.

TV3 state that when the complainant asked at a meeting on 4th March, 2014 whether the documentary contained footage of the place where her son had died, the producer confirmed that there was indeed footage of the exact place where he had been found. The producer agreed to remove this footage and this was done, with a general shot of the Creane back garden used instead. In respect of the CCTV footage the complainant signed a release form in the following terms as part of her participation in the making of the documentary:

To Whom It May Concern,

I hereby agree to the provision of any material An Garda Síochána and other state agencies may have in relation to the tragic deaths of Shane Clancy and Sebastian Creane on the 16th of August 2009 including material related to the autopsy report, post mortem report, the Inquest, photographs, audio and visual/video recordings and other material that may be assistance to the documentary maker Lisa Marie Berry of TV3 for the purposes of producing a documentary on that tragedy.

Signed: _____

Leonie Fennell

The complainant was told at the meeting when she signed the release form for An Garda Síochána, that TV3 intended to use 'actualities' in the documentary and she was told that TV3 was looking for crime scene photos (which TV3 ultimately decided not to use out of sensitivity to both families), CCTV footage, 999 calls and all documentation relating to the case. TV3 claim that the complainant did not express any concern about using actualities and signed the form for An Garda Síochána. The broadcaster states that Ms. Nuala Creane, mother of Mr. Sebastian Creane who was killed and Mr. Dylan Creane who was almost killed, was also informed of this.

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Ms. Creane was also told that TV3 intended to use CCTV footage, 999 calls, crime scene photographs, and all other documentation that would be of assistance to the documentary. Ms Creane also signed the form. TV3 claim that both families were treated on an equal basis and with utmost sensitivity.

The broadcaster states that the main reason for avoiding actor reconstruction with knives and blood which most crime documentaries resort to was to protect Shane Clancy's family from the actions carried out on Sunday 16th of August. Using CCTV footage of him in Dunnes Stores and the Chip shop, in which Sebastian Creane also featured, was documenting the actual events of the night which was the most factual way of documenting the night.

The broadcaster states that Ms. Fennell alleges that she was *"assured all along that [she] was entitled to retract [her] part of the documentary, which TV3 then ignored"*.

TV3 deny any such assurances were ever given to the complainant. Neither the producer nor any other member of TV3 staff ever told the complainant she could remove her interview from the documentary. To do so would be unheard of in terms of best practice and is certainly not a practice TV3 would adopt as it would run contrary to the editorial integrity of the programme.

TV3 state that the complainant has forwarded selected emails and texts which she claims substantiate a number of the matters she has complained of. TV3 would claim that in fact what the email exchange from January 2013 shows is that the complainant was well aware of the type of documentary TV3 intended to make having met with Ms. Berry and Mr. Browne. The intended structure of the programme never changed from what was outlined to the complainant at that time and her subsequent consent to participate in the documentary was fully informed.

TV3 maintain that the text messages that precede broadcast of the programme are by and large assertions; it is never acknowledged or accepted by the producer that the complainant is entitled to see the documentary or make changes before broadcast. The producer explained to the complainant during the course of telephone calls and face-to-face meetings that once she consented to participate in the documentary she would not be entitled to withdraw. TV3 state that the producer's position is very clear:

- She, along with Mr. Browne, met with the complainant in January 2013 to outline the documentary TV3 intended to make and on the basis of all that was discussed at the meeting the complainant chose not to participate.
- In September 2013 she met the complainant again in order to interview the complainant following reconsideration of her decision not to participate. The complainant signed a release form in relation to her participation in the programme at this time. As previously stated, the complainant was given a full transcript of her interview and was told that if there were any inaccuracies in what she had said then these should be highlighted as soon as possible and they would not be used in the documentary. The complainant never raised any issue with the transcripts of her interview.

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- In November 2013 the producer again met with the complainant, this time to explain the release form relating to the Gardai and other State bodies that she was asking the complainant to sign. This release form was signed by the complainant.
- On Tuesday, 4th March 2014 the producer again met with the complainant. She ran through an outline of the final documentary and no issues were raised by the complainant with the proposed format.
- At the meeting the complainant asked about the involvement of the psychiatrist and another expert and was told that they would be arguing opposing points of views on the medication issue.
- The producer advised the complainant that she thought hearing for the first time the two survivors, Ms. Jennifer Hannigan and Mr. Dylan Creane, detail their first-hand accounts of the attack by Shane Clancy would be harrowing.
- She confirmed that the documentary did contain an image of the spot in the Creane garden where Mr. Clancy's body had been found and upon the complainant's request agreed that this would be removed. This was done.
- At the end of this meeting of 4th March, the producer can recall putting it to the complainant that "*she was either in or out*" and took the precaution of asking the complainant to sign a release form for the second time which she did.

TV3 would respectfully submit that the complainant was fully informed of the nature of the documentary TV3 were making and consented on two separate occasions to her participation in it.

The timeline of events indicates very clearly that it was not until press coverage in advance of broadcast began focusing more on the Creane story, one it should be emphasised which, unlike the complainant's story, had never been told before, that the complainant informed TV3 she no longer wished to participate. This was on Sunday, 9 March - the day before broadcast. Having regard to the considerable lengths TV3 had gone to in order to keep Ms. Fennell informed about the programme there was no way her request to be removed could be accommodated at that late stage.

In all of the circumstances TV3 believes it cannot possibly be accused of not taking due care towards the complainant in both the making and broadcasting of the documentary and would argue that the producer went above and beyond what could have been expected to be a reasonable standard of care.

In relation to section 3.4, TV3 understands the complainant to be referring to the comments made by Mr. Vincent Browne that Mr. Clancy had "*obviously been suffering from some psychiatric illness or other*". Mr. Browne made these comments on the Tonight with Vincent Browne panel discussion which followed the broadcast of the documentary.

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In circumstances where the documentary had explored the differing views of the two psychiatrists interviewed on the programme about Mr. Shane Clancy's state of mind (TV3 does not use this term in any strict medical sense) TV3 does not believe it was unwarranted for Mr. Browne to conclude that Mr. Clancy was suffering from a psychiatric illness.

TV3 state that the complainant appears to take serious exception to the views expressed by one psychiatrist. This is evidenced not only from the correspondence she has sent to the BAI but also from some of her blog posts. We understand that the complainant and this psychiatrist have exchanged legal correspondence in the past.

TV3 is not in a position to speak for this psychiatrist, but her professional credentials are well established. She is a Professor of Psychiatry at the Mater Hospital in Dublin and also at University College Dublin. Having regard to the research carried out for the programme and the contents of the exchanges between the psychiatrist included in the programme and TV3, the broadcaster does not believe that a correlation between Mr. Shane Clancy's actions and his mental health was "*unwarranted*". Certainly, the complainant and indeed other viewers may disagree with this comment and they are fully entitled to do so, but TV3 believes that to suggest that it is not sustainable to suggest that there is no basis at all for making such a correlation.

Decision of the Compliance Committee:

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

- Having reviewed the complaint material, it is the Committee's opinion that the broadcaster did not demonstrate due care towards the complainant, particularly given that the programme material contained characters, actions and personal circumstances with which the complainant would identify and given that the content dealt with suicide, amongst other matters.
- The Committee's decision has been informed by a number of considerations.

Firstly, the Committee noted that the programme makers would not have appeared to have informed the complainant in sufficient detail about the contents of the programme in advance of it being aired. It reached this view on the basis that the complainant expressed distress and surprise about certain aspects of the programme. This included CCTV images of the complainant's son on the night of the events in question, as well as the description of a document described as 'a journal' written by her son. The inclusion in the programme of references to a series of letters as 'a journal' was considered particularly problematic, insofar as the complainant would not appear to have been informed of these letters in advance of the broadcast and referring to them as 'a journal' was potentially misleading.

Given the requirements of section 2.2.2 of the *Code of Programme Standards*, the Committee was of the view that the broadcaster, in failing to provide this information and in its treatment of the 'journal', did not show a level of due care to the complainant that was proportionate to the sensitivity of the issue for the complainant.

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Secondly, upon reviewing the complaint material, the Committee was of the opinion that the programme makers had not fully met the terms agreed with the complainant with regard to her participation in the programme. This included an understanding that the use of her contribution would be dependent on her seeing the programme in advance, and that she would be able to request the removal of any material with which she was not happy after having seen the final programme.

The Committee was of the view that as a result, the complainant was given the impression that her editorial input into the programme was greater than that of a regular contributor and that this understanding was reasonable in the absence of any information to the contrary from the programme makers over the period during which the programme was being produced. While noting that the broadcaster states that such assurances were not given and that it would in practice be unusual to grant such a level of editorial input to a contributor, the broadcaster in its response did not demonstrate that it had made sufficient efforts to clarify this situation to the complainant.

- Regarding those aspects of the complaint pertaining to section 3.4.4 of the *Code of Programme Standards*, the Committee was of the view that matters of mental health and the role of mental health were relevant to the programme. While noting that the impact and relationship between the mental health of Mr. Clancy and the events depicted in the programme are a matter of dispute, the Committee did not agree with the complainant that the handling of the issue of the mental health of the complainant's son entailed an unwarranted correlation between a criminal act and the mental health of Mr. Clancy. Accordingly, this aspect of the complaint has been rejected.
- When considering this complaint, the Committee's deliberations were limited to the programme and not to any related content referenced in the complaint, specifically, the edition of the *Tonight with Vincent Browne* programme subsequently broadcast.

Rejected by BAI Compliance Committee

Complaint made by: Mr. & Mrs. Ronán and Glenda Cox

Ref. No. 49/14

Station:

TV3

Programme:

24 Hours to Kill

Date:

3rd February 2014

Complaint Summary:

Mr. & Mrs. Cox's complaint is submitted under the Broadcasting Act 2009, section 48(1)(c) privacy of an individual.

The complaint concerns a programme on TV3 examining recent murder cases in the Irish State. The complaint states that the programme was the unwanted invasion of the privacy of the complainants' family arising from the inclusion in this programme of footage of their property. The complainants state that this footage of their property was shown without their permission. The complainants state that the programme about which their complaint is made included various clips that clearly showed their home and their property and linked it to the subject matter of the broadcast, with one of the shots showing a zoomed close-up of their living room.

The complainants state that the property shown in the clips has been renovated and added-to by the complainants since they bought it. They state that it is totally unreasonable for the producers of the programme to use clips of their property that could reasonably be construed as an image or images of the scene of the incidents being referred to in the broadcast even to, but not limited to, the extent that pictures of their children's belongings could, by implication, be associated with the victims and perpetrators of the crime featured in the programme. The complainants state this can only be described as a gross, unreasonable and crass encroachment on the privacy of their family.

Broadcaster's Response:

Initial response to complainant:

TV3 states that any shots of the property, which was the former home and location of the murder of Mr. McGinley, the subject matter of the documentary, were taken from a public road. At no time did any of TV3's employees or agents enter onto the property. The shot that zoomed up to the window of the property did not show any images from the room within. Further, the documentary featured no marks or signage that could have been capable of identifying the property and many of the shots of the house were blurred. The images of the house were generic in nature.

TV3 notes that archive footage from various news outlets from the time of the murder exists and that these also feature footage of the house. Therefore, this is not the first time that images of the house have appeared in the public domain. Given the public interest element involved in documentaries of this type, TV3 felt that the shots of the property were justified and do not represent an unreasonable encroachment of the complainants' privacy.

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Response to BAI:

TV3 states this programme featured the murder of a Mr. McGinley and the subsequent conviction for same of his wife and her partner in 2000. The murder occurred in the family home which is the home of the complainants. The house where the McGinley's lived featured repeatedly in the coverage of the murder of Mr. McGinley both in the press and also throughout the trial.

The broadcaster states that the shots of the property were taken outside the entrance of the house. The zoomed-in shots were very generic. It is simply not possible to identify the house as a result of the footage that was broadcast. Part of the complaint is that the stone wall entrance and letter box are features that are capable of identifying the property in the general locality. TV3 submits that given the history of the house and the related press coverage, the property was already very much identifiable in the general locality. Footage of the house was featured on many other news outlets at the time of the murder and subsequently when the criminal court case took place.

TV3 further maintains that there is a public interest element involved in documentaries and they strongly feel that the shots of the property were editorially justified. This house is not an ordinary residence. It is the location of a murder that was the subject of a widely publicised court case and murder conviction which is well known in the area and had featured heavily in the media since 2000. Given that background and context, TV3 feels that the balance lies in their favour when determining if there was an unreasonable encroachment of the complainants' privacy. TV3 submits that the footage was editorially justified and was not overly dominant in the 45-minute programme.

Decision of the Compliance Committee:

The Compliance Committee considered the broadcast and the submissions from the broadcaster and from 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:

- In considering whether the item infringed the Broadcasting Act 2009, the Committee had regard to the importance of balancing the right to free expression, the public interest and the importance of not encroaching upon the privacy of individuals in an unreasonable manner.

In this context, the Committee noted that the home of the complainants was the site of a murder and for this reason it was a key part of the focus of the programme and of the manner in which the story of the murder was told. This was evident from the exterior shots of the house used throughout the programme and the images of the interior of another house (not the complainants') used to portray the events inside the house. The Committee noted that shots of the scene of a crime are common in programmes such as this one. However, the Committee also noted that the house is now occupied by individuals with no association to the murder and therefore it considered whether the images of the house used in the programme were an undue encroachment upon the privacy of the complainants, given the events that had unfolded before the complainants became occupants.

Broadcasting Complaint Decisions

- Following a review of the programme, the Committee was of the view that the use of the house was editorially justified and did not unreasonably encroach upon the privacy of the complainants. In this regard, the Committee noted that the shots of the house were taken from the public road running alongside it and that there was, in its opinion, nothing in these shots that could be considered private. There was therefore no requirement in these circumstances to secure permission from the owners for its inclusion in the programme.

The Committee also noted that as the house was the site of a murder, the location and details of which were in the public domain and would have been known locally, the images of the house were justified in the public interest. Further, it was the view of the Committee that there was no evidence from the complaint or in the programme that any individual occupant of the house was identifiable.

- While agreeing that the programme did not infringe the statutory provisions on privacy and that the complaint should be rejected, the Committee was of the view that the programme makers could have shown greater sensitivity in the manner in which the programme was produced. In this regard, it did not appear that the current occupants of the house had been informed in advance of the broadcast of the programme. The Committee did note that the broadcaster took down the programme from its online service and agreed to blur the images of the house in future broadcasts of the programmes.

Broadcasting Complaint Decisions

Complaint made by: Mr. Ultan Murphy

Ref. No. 57/14

Station:

Today FM

Programme:

The Last Word

Date:

19th February 2014

Complaint Summary:

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

The complaint concerns a comment by the presenter attributed to one of his guests (Lord Christopher Monckton) that he was a Climate Change 'Denier'. The complainant states that this is a pejorative term associated with holocaust denial and that its use amounted to hate speech in the context of which the debate was presented. The complainant states that its use was contrary to the requirement for impartiality incumbent on the programme presenter. The complainant further states his view that:-

- The presenter initially gave three climate change 'alarmists', who the complainant claims are also climate change "activists" with vested interests, 20 minutes to discuss/present the 'climate-change-alarmist case' (Professor John Sweeney, Mr. John Gibbons and Mr. Eamon Ryan - Green Party). The complainant states that after 6pm Lord Monckton was then in studio and challenged the presenter for his use of the pejorative term 'Denier' to describe him.
- The complainant states that the presenter did not apologise when a listener texted-in to remind him that the term 'Denier' was inappropriate.
- The complainant states that Lord Monckton was not given the freedom to express his opinion unchallenged. He states that it would have been fair if Lord Monckton was given 50% of the time with any one of his opponents.
- The complainant states that the presenter gave 20 minutes of a one-sided debate initially before 6pm for three sharing the same opinion, but allowed an open debate between all four contributors after 6pm. The complainant claims that this diluted and obscured the message from Lord Monckton unfairly. He states that it was three guests against one with the majority of time being given to the 'alarmists'.
- The complainant states that, as a Climate Change Bill is being prepared in the Dáil and the fact that the impact of weather events is topical and political and the subject of debate (wind turbines & pylons), the broadcast in question breached the above guidelines because the subject matter was not presented in a fair and impartial manner.

Broadcasting Complaint Decisions

Broadcaster's Response:

Initial response to complainant:

Today FM rejects the notion that referring to Lord Monckton as a 'Climate Change Denier' is either intended as pejorative, or as any sign of imbalance. The broadcaster claims that the use of the term Climate Change Denier is a topic of some controversy in terms of the environment debate, but given Lord Monckton's pronounced scepticism about climate change in the face of scientific evidence and given his own lack of scientific qualifications, the term Climate Change Denier seemed appropriate in this case.

Lord Monckton addressed the issue with the presenter directly and suggested that he might not use the phrase again. He did not ask for any form of apology for use of the term and Matt Cooper did not use it further.

Today FM state that there is no referendum or public vote in relation to climate change – the programme was not a debate about whether or not climate change exists – and the vast weight of scientific evidence and opinion points to the fact that climate change does exist. The item was a discussion, inspired by the continual stream of extreme weather that Ireland has experienced this winter and in a context of commentary by Minister Michael Noonan while visiting some of the sites of the flooding. The initial part of the discussion was intended to provide a scientific context for the weather events – and the climatologist who was interviewed pointed to the “smoking gun” evidence of climate change impact on the weather events.

Today FM state that the discussion was in fact balanced in terms of the weight of opinion around climate change. Equally, the programme presenter read text responses from listeners who both agreed and disagreed with the panel.

The discussion was clearly flagged in a broad context and there are no specific requirements around this topic.

Response to BAI:

Simon McAleese, Solicitors, on behalf of Today FM, restate the response provided by Today FM and reiterates their client's firm and unequivocal rejection of any allegation of unfairness and/or partiality in relation to the broadcast in question.

Decision of the Compliance Committee:

The Compliance Committee has considered the broadcast and the submissions from the broadcaster and the complainant. Having reviewed the material, the Committee has decided to reject the complaint. In reaching this decision, the Committee had regard to the following:

- In considering the complaint, the Committee did not agree with the broadcaster that the programme item did not entail a discussion about the existence of climate change or that it was a broad discussion and there were no requirements in respect of how this topic should be discussed. While the context for the discussion was recent flooding in Ireland and the link between this weather and climate change, the discussion progressed to one about climate change and some of the issues of debate about this phenomenon including, the nature and extent of climate change and whether human behaviour was a key contributory factor. It was in this context that Lord Monckton was interviewed.

Broadcasting Complaint Decisions

Therefore, the Committee considered the topic to be one of current public debate and controversy and the requirement for fair, objective and impartial coverage applied. Notwithstanding this, the Committee did not agree that the item infringed these requirements.

- While noting the requirement on broadcasters to discuss current affairs issues in a fair, objective and impartial manner, the Committee also took into account that any discussion will be informed and guided by established facts and the wider context of a given area of debate. In this regard, the Committee considered it reasonable, given the wide consensus in the scientific community that climate change is occurring, and can be attributed to human activity, that the programme makers took this position as a starting point for debate. Accordingly, the predominance of this perspective in the programme discussion and the robust approach to the guest, Lord Monckton, who did not agree with this position, was not considered problematic in such circumstances.

It was also evident from a review of the programme that the guest, Lord Monckton, was offered ample opportunity to outline his own views on climate change and to challenge criticisms of his views. The Committee noted that the guest was very able to defend his views, and did so effectively.

- The Committee noted that the term 'denier' was used on a number of occasions during the broadcast, including by the presenter in respect of one of his guests, Lord Monckton. However, it was apparent from its review of the programme that the guest in question was afforded the opportunity to rebut the use of this term to describe his views on climate change. The Committee also noted that the presenter read out on-air a text message from a listener which challenged the use of this term.

While agreeing that the use of the term 'denier' was potentially provocative, the Committee did not consider its use unfair given the broad scientific consensus regarding climate change and given that the guest at whom the term was directed was permitted to challenge its use, and did so effectively. Further, the Committee did not hold the view that the term could reasonably be understood as an expression of hate speech, as contended by the complainant.

Broadcasting Complaint Decisions

Complaint made by: Mr. Brendan Cafferty

Ref. No. 60/14 & 61/14

Station:

TV3

Programme:

Tonight with Vincent Browne

Date:

28th & 30th January 2014

Complaint Summary:

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

The complaint concerns comments made by the presenter in relation to the present Government and their decision to fight the court case brought by Louise O'Keeffe to the European Courts. The complainant states that this lady had been abused as a child in national school and she took legal action in the Irish courts against the State which she lost in a majority verdict. She then took her case to the European Court of Human Rights (ECHR). The complainant states that these two programmes, especially the one broadcast on the 28th January, dealt with Ms. Louise O'Keeffe's recent victory in the European Court of Human Rights (ECHR).

The complainant claims that in his comments on the programme broadcast on 28th January, Vincent Browne was scathing about the present Fine Gael/Labour Government fighting this case in Europe. The complainant claims that the presenter emphasised '*this*' Government, not '*the*' Government. The complainant also states that the presenter made definitive and biased statements about the matter in his introduction to the programme and in the questions that he put to a Government T.D. on the programme of the 28th January. He states that no balancing questions were put to other members on the programme panel. The complainant states that the presenter failed to mention that the High Court and Supreme Court actions were taken under the last Government, who also contested the case. He notes that one must remember that governments act on legal advice; the State does not necessarily throw in the towel when any action is initiated against it.

The complainant maintains that the presenter also failed to adequately cover the fact that a sizeable minority, about a third of the ECHR, took the majority side of the Irish Supreme Court and the stance of the Irish State.

The complainant states that the programme returned to the matter on the 30th January and it was undertaken in the same manner. The complainant also states that the presenter referred to an apology by An Taoiseach, Enda Kenny T.D., which he described as being mumbled and therefore inferred it was not sincere. The complainant states that his assumption is that An Taoiseach's apology was for what happened to the lady and not for his Government's action, which he was obliged to follow.

Broadcaster's Response:

Initial response to complainant:

TV3 state that the point the programme presenter made was simply that the present Government that purports to be solicitous of the protection of children, was represented by lawyers at the Europe Court of Human Rights who argued that the State had no responsibility for the protection of children against abuse in institutions funded by the State and supervised by the State.

Broadcasting Complaint Decisions

TV3 further state that, in his apology to Ms. Louise O’Keeffe, An Taoiseach apologised for the fact that Ms. O’Keeffe was abused and not for the substantive point, that lawyers representing his Government had argued, that the State had no responsibility for the protection of children against abuse in institutions funded by the State and supervised by the State. TV3 state that this is a crucial point in the debate instigated by the Court in the Louise O’Keeffe case and, in TV3’s view, the presenter was correct in focusing on these matters. As for a “de facto obligation” on the part of the State is to uphold the Supreme Court ruling on the matter, TV3 have no knowledge of such obligation and, in any event, the issues argued at the European Court of Human Rights were different to those litigated and decided by the Supreme Court. The rationale behind the State’s position in the matter had been made quite clear by the Government; obtaining balance is often a question of offering a countervailing view.

Response to BAI:

TV3 states the central point of Mr. Cafferty’s complaint appears to be that the Government, whether it is the present or any other Government, is obliged to act in accordance with the legal advice it receives in a case regardless of its wider implications. This seems to preclude the possibility of weighing a case in terms of the State’s obligation to defend and protect the rights of its citizens over and above its ability to avoid legal liability.

The broadcaster states that Ms. O’Keeffe was one of 21 girls abused in a Cork School during the early 1970’s. Ms. O’Keeffe took a case against the State seeking damages for the abuse she had suffered but was unsuccessful in both the High Court and the Supreme Court on the basis that the Department of Education was not deemed vicariously liable for the actions of her abuser given that the school was run by the Catholic Church. The broadcaster notes that the Irish State persisted in its defence right through the hearing before the European Court of Human Rights in which Ms. O’Keeffe argued among other issues, that the State had a duty to protect her.

The broadcaster states that, ultimately, the Court found the State was liable for failing to protect her from abuse in circumstances where it was aware that sexual abuse of young people was an issue and yet it failed to take the necessary steps to detect and put in place appropriate safeguards against such abuse. TV3 state that the complainant alleges that the programme presenter’s treatment of the story was not impartial. TV3, respectfully, reject this allegation.

The broadcaster states that the point made by the presenter during the two programmes in question and repeated in TV3’s response to the complainant’s original complaint was in summary, *“... that the present Government which purports to be solicitous of the protection of children, was represented by lawyers at the European Court of Human Rights, who argued that the State had no responsibility for the protection of children against abuse in institutions funded by the State and supervised by the State.”*

The broadcaster states that the line of questioning pursued by the presenter with the panellists over the course of the two programmes related to the conduct of the State and in particular the decision of the current Government in instructing lawyers to defend the case before the European Courts of Human Rights.

Broadcasting Complaint Decisions

TV3 notes that the complainant takes issue with the fact that much of the presenter's line of enquiry focused on the "present Government" given that the original case preceded its time. Nonetheless, TV3 claim it is entirely accurate and reasonable to point out that it was the present Government who had responsibility for defending the case before the ECHR and it was they who made the decision to pursue a technical legal defence rather than taking moral responsibility for the abuse suffered by Ms. O'Keeffe.

The broadcaster states that on the first show of 28th January Mr. Conor O'Mahony, a lecturer on Constitutional & Child Law at UCC, made the point that in late 2011 the current Minister for Children, Frances Fitzgerald made a speech in UCC acknowledging that the State must take responsibility for residential abuse but at the very same time the Government was filing a 900 page defence in the Louise O'Keeffe case.

On the programme of 30 January the panellists were Ms. Mary Lou McDonald, Sinn Féin TD, Ms. Regina Doherty, Fine Gael TD and Ms. Cathy Irwin, a solicitor with Beauchamp solicitors. This programme discussed the fact that An Taoiseach had by then apologised for the abuse Ms. O'Keeffe had suffered and then went on to discuss the broader issue of the State's attitude to child protection, both contemporary and historical.

One of the questions put to Ms. Doherty by the programme presenter was whether or not she was embarrassed by her Government's actions in fighting Ms. O'Keeffe's claim at the European Court of Human Rights and Ms. Doherty confirmed, as a Government T.D., that she was embarrassed by that decision. The programme of 30th January also showed a clip from that day's Dáil Éireann proceedings during which Mr. Eamon Gilmore, Tánaiste at the time in the present Government, replied to a question raised by Ms. Mary Lou McDonald asking whether or not the State should be apologetic to Ms. O'Keeffe not alone for the abuse she had suffered but also for the manner in which the State had defended her claim. Given an opportunity to answer this specific question, the very same one for which the complainant is critical of the programme presenter for pursuing, Mr. Gilmore failed to do so.

TV3 submits that the central issue explored over the course of the two programmes was the fact that child abuse has been and remains a systemic issue in Irish life, and while the present Government has made numerous commitments to address the State's failure to oversee proper child protection measures and has introduced legislation to give effect to those commitments, it adopted an entirely contradictory position in deciding to pursue a purely legalistic and uncompassionate approach to Ms. O'Keeffe's case.

TV3 acknowledges that the presenter's line of enquiry throughout the two programmes was robust and vigorous but do not accept that it amounted to a breach of the *BAI's Code of Fairness, Objectivity and Impartiality in News and Current Affairs*. TV3 maintain that the production, reporting and questioning in respect of the matter was "credible, trustworthy and editorially independent" with an accurate presentation of the factual history of the case as required by the Code. TV3 claim that at no time was a partisan position advocated but in the very particular circumstances of this case the reporting and questioning could be only critical of the Government's conduct in defending the case before the ECHR. TV3 contend that the duty to be objective and impartial cannot be extended to imply a duty to put forward a position on behalf of Government when even one of its own members admits they are embarrassed by it.

Broadcasting Complaint Decisions

Decision of the Compliance Committee:

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

- The context of the discussion was a decision, against the Irish Government, by the European Court of Human Rights, in respect of the treatment of a survivor of abuse. In view of this, it was the opinion of the Committee that it was reasonable and appropriate to undertake the programme discussion in a manner that was critical of the actions of the Irish Government in respect of Ms. Louise O’Keeffe. Further, given the seriousness of the topic and its impact on many victims, a challenging and robust critique was also considered reasonable.
- The Committee noted that as a current affairs programme, viewers should expect that the discussion will involve an analysis not only of the facts of the court case examined but also of the political aspects of the decision of the Irish Government to take this case to the European Courts, including how this decision sat alongside the public statements and policy of the Government on child protection. As such, an examination of the perceived contradiction between the Government’s action in respect of this court case and its policy commitments on child welfare were considered appropriate in circumstances where the European courts had found against the State’s approach.
- Upon its review of the programme, the Committee found that there was a broad range of views expressed. The Committee also noted the presence in the programme of a representative of one of the Government parties who was in a position to outline and, where appropriate, rebut comments made by programme contributors about the actions of the current Government. The Committee also found that there was nothing to indicate that any contributions made during the programme were factually incorrect.
- Regarding the programme’s focus on the current Government, the Committee found that this was appropriate given that the current Government had proceeded with the court case and that the nature of the programme is to discuss topical news and current affairs events. Notwithstanding this, the Committee was of the opinion that while some context was provided for the discussion, viewers would have benefited from the inclusion of more information on the role of recent Governments in respect of the court case, the role played by them in challenging the claims of Ms. O’Keeffe in the Irish courts and their accountability in the context of the final decision reached by the European Courts.
- Having had regard to these considerations, the Committee has decided to reject the complaint.

Broadcasting Complaint Decisions

Complaint made by: Anonymity Granted

Ref. No. 63/14

Station:

TV3

Programme:

The 5.30

Date:

28th February 2014

Complaint Summary:

This complaint is submitted under the Broadcasting Act 2009, section 48(1)(a)(*fairness, objectivity & impartiality in news and current affairs*), the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4, 7 and 17 and section 48(1)(c)(privacy of an individual).

The complaint concerns a news report on Portlaoise Hospital that the complainant states included images of her walking outside of the hospital. The complainant states that her twin children were in the hospital at that time and she had been there on that day, due to an emergency which she states she found quite distressing. The complainant states that TV3's news reporter approached her requesting an interview but she declined and reiterated that she did not want to take part. The complainant states that she made it clear to the reporter, on more than one occasion, that she wanted to be left alone and that it took the intervention of her husband before her wishes were respected. The complainant states that while the news clip, which included a picture of her from the waist down, would be anonymous to a number of viewers, it was not anonymous to anyone she spoke to on that day.

Broadcaster's Response:

Initial response to complainant:

TV3 states that they always seek consent for interviews. When the reporter approached the complainant it was to ascertain whether or not she wished to make a comment on the story. The complainant declined and the reporter respected the complainant's wishes. However, the reporter did not take this to mean that the complainant had objected to being filmed.

TV3 further states that the image of the complainant in the report is anonymous and it would not be unusual to feature such pictures of people in a public place. However, both the reporter and TV3 regret that the complainant was aggrieved by the anonymous image of her crossing the car park. TV3 apologise for any offence cause and state that this was not their intention.

Response to BAI:

TV3 states that their reporter approached the complainant as she was leaving the grounds of Portlaoise General Hospital and asked if she wished to be interviewed and/or comment on the publication that day of a report which had been prepared in respect of shortcomings in the maternity care being provided by Portlaoise Hospital.

The complainant and her husband made it clear that they did not wish to be interviewed for the story and those wishes were respected. In circumstances where the complainant was approached for comment, advised of the nature of the item being filmed and thereafter declined to be interviewed, TV3 would submit that they fulfilled its obligations under the Rule 7 and/or in the alternative circumstances where the Rule clearly refers to "interviewees" and no interview took place, this Rule does not apply to the present matter. It is TV3's submission that this Rule is clearly intended to apply to a situation whereby a news item is focused on or specifically makes reference to a person or organisation and that same person and/or organisation refuses to contribute or declines to comment when asked to do so.

Broadcasting Complaint Decisions

In circumstances where the complainant was not in any way the focus of the piece in question, then TV3 does not believe that her decision not to be interviewed required explanation to the watching audience. This would only have served to identify her.

It may be the complainant's position that her refusal to contribute by way of comment also extended to a refusal to appear anonymously in the piece but, and it is the very clear position of the TV3 journalist who prepared the story that at no time did the complainant state she did not want her image used, even if that had been made clear it would not be possible for TV3 to comply with this rule without thereby breaching the complainant's anonymity.

TV3 also states their reporter and cameraman were both located on the public footpath outside the hospital grounds when they shot the footage of which the complainant has complained.

TV3 are not aware of any allegation that the news item in question was inaccurate. However, they also emphasise that they do not believe the news item in question was in any way untoward or more specifically that the anonymous image of the complainant amounted to a breach of the *BAI's Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

Decision of the Compliance Committee:

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

- Rule 7 of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* requires broadcasters to make it clear to audiences where a person or organisation refuses to contribute to news and current affairs content or chooses to make no comment. However, this requirement is only relevant in circumstances where a decision not to provide audiences with this information would be unfair. As such, it is not a requirement in all instances. It was the Committee's view that as the complainant was not the subject or focus of the news item and did not make a contribution to the topic under discussion, the broadcaster was not required to inform audiences of the complainant's decision not to be interviewed.

The Committee also noted that the news item included images, of a short duration, of a number of different people on the public grounds of the hospital. The Broadcasting Act 2009 requires broadcasters to ensure that the privacy of individuals is not unreasonably encroached upon. It was the view of the Committee that the inclusion in a broadcast of footage of unidentified individuals in a public space, (in this case, the public grounds of a hospital), filmed so that their faces were not visible, does not constitute an unreasonable encroachment of an individual's privacy.

- In terms of Rule 17 of the *BAI's News and Current Affairs Code*, the Committee found no evidence to support that element of the complaint that any aspect of the broadcast was inaccurate. In addition, the Committee found no grounds to deem the item contrary to the general requirement for fairness, objectivity and impartiality set out in Rule 4.1.

Broadcasting Complaint Decisions

- When considering the complaint, the Committee noted the comments made by the complainant and the distress she states was caused to her upon viewing the item. While the Committee has decided to reject the complaint, it was of the view that the broadcaster should have demonstrated greater sensitivity to the complainant and it may wish to review its approach to the inclusion in broadcast footage of individuals who have declined to be interviewed in circumstances where their contribution is incidental. The Committee also noted that the broadcaster in its response to the complainant expressed regret that the complainant was aggrieved by the image of her included in the programme and apologised for any offence cause and stated that this was not their intention.

Broadcasting Complaint Decisions

Complaint made by: Ms. Louise Hannon

Ref. No. 65/14

Station:

RTÉ Two

Programme:

'The Centre'

Date:

24th March 2014

Complaint Summary:

Ms. Hannon's complaint is submitted under the Broadcasting Act 2009, 48(1)(b)(harm and offence)(*Code of Programme Standards 3.4.1; 3.4.2 and 3.4.3, Persons and Groups in Society*).

The complainant states that she was appalled and traumatised by this "comedy". She is a transgender woman trying to live a normal life but she states that watching this denigration of her being was an insult to her and other transgender persons in Ireland. The complainant states the transgender community has one of the highest suicide rates in Europe (30%) because they are rejected by their loved ones and society in general due to the way they were born.

The complainant objects to the depiction in this programme of minorities as stereotypes and the reaction of the programme characters to one minority in particular, the transgender woman 'Nualla'. The complainant questions if it is justifiable to lampoon a minority for being themselves after possibly years of individual struggle.

The complainant believes that the language used against 'Nualla' is offensive and feeds into society's prejudice around the gender binary within which 'Nualla' (as portrayed) does not obviously fit. For the transgender community who already suffer abuse, both verbal and physical in society, this portrayal feeds hate, crime and abuse of those who are transgender. The complainant also believes it discourages diversity and transgender acceptance in society through ignorance in the wider population and may be responsible for mental health problems in those who are young and vulnerable.

Broadcaster's Response:

Initial response to complainant:

RTÉ state that it accepts the broader point made by the complainant regarding the specific vulnerability of transgender people and the necessity to exercise caution in representations of transgender characters. It is not RTÉ's intention to go beyond what is appropriate or justifiable in depicting vulnerable groups, especially ones where inappropriate depictions could have a negative impact on mental health.

RTÉ state that 'The Centre' is a comedy full of exaggerated characters. In the case of 'Nualla', she is a transgendered character who is accepted unreservedly by her co-workers and those who use the community centre and is presented onscreen no differently from them. While, as with all comedy, the characters presented are, to some degree, 'types', they are also seen as individuals with particular traits and weaknesses; 'Nualla' is not presented as being representative of transgendered people. She is the first leading character to appear, at a point when the life in The Centre is stable and cordial. It is made explicitly clear in the voiceover that she and other characters play a very positive role in creating a very normal, uneventful environment.

Broadcasting Complaint Decisions

The broadcaster states that this routine, humdrum environment is thrown into disarray and challenged by the arrival of the comedy grotesque 'Amanda Menton' who is clearly introduced as a highly aggressive, dislikeable character. She represents the antithesis of the community spirit displayed by all the other characters, including 'Nualla' and is an unsavoury selfish creation. 'Amanda' outwardly has the trappings of 'Celtic Tiger' era success – glamorous cloths, media success, business acumen, high self-esteem, but is very obviously unscrupulous and self-serving to the core. In effect, the exaggerated cartoon character of 'Amanda' is an equal opportunities offender; she insults each and every character she comes across, in the interests of nakedly pursuing her own self-interest. Set against this, the people that she attacks and intimidates are overwhelmingly positive, likeable characters, who are interested in advancing the broader sense of community that 'The Centre' embodies. In this context, it is RTÉ's view that LGBT characters should not be treated differently. The particular character of 'Nualla' is presented alongside other characters – working and middle class, overweight and thin, obsessive and slovenly – and is treated no differently from them.

The broadcaster states that all the characters in the programme are exaggerated and there is a great deal of 'clowning'. It is not realistic observational comedy, but rather is designed to deliver absurdist gags, familiar to Irish and international audiences. Clearly this is not to everyone's taste, however, RTÉ claim it does take care to ensure that the sometimes challenging nature of the material is well-flagged in the promotion of the programme and specifically in the continuity announcement which introduces the programme.

Response to BAI:

In responding to the complainant's original complaint to RTÉ in respect of this programme, RTÉ did so in the context of Content Rule 3.4 of the *Code of Programme Standards*, cited by the complainant. For this reason, the RTÉ response to the referral to BAI does not differ greatly from that original response.

The broadcaster states that *The Centre* is a comedy full of exaggerated characters. In the case of 'Nualla', she is a transgendered character who is accepted unreservedly by her co-workers and those who use the community centre and is presented onscreen no differently from them. While, as with all comedy, the characters presented are, to some degree, 'types', they are also seen as individuals with particular traits and weaknesses: 'Nualla' is not presented as being representative of transgender people, not as a stereotype, but as being a particular person, with her own foibles arising from her personality and not her gender identity.

The broadcaster states that 'Nualla' is the first leading character to appear in the programme, at a point when life in *The Centre* is stable and cordial, before the arrival of the disruptive force which will propel the narrative. The broadcaster states that it is made explicitly clear in the voiceover that she and the other characters play a very positive role in creating a very normal, uneventful environment.

The broadcaster states that in portraying the tension between community spirit and self-interest, centred on the satirical portrayal of a character such as 'Amanda' who voices prejudices in a ruthlessly inconsiderate manner, RTÉ appreciates that there is a fine line to be walked. Sitcoms here and abroad often use the device of including a character whose views and opinions are so risible – and unsympathetic – that they undermine prejudice (rather than perpetuate or amplify it). 'Alf Garnett' from the 1960s BBC comedy *Till Death Do Us Part* is a classic example.

Broadcasting Complaint Decisions

The 'Amanda' character is in that tradition and RTÉ believes that producing such social satire is a useful as well as entertaining aspect of their brief as a broadcaster.

RTÉ wishes to underline again its recognition of the specific vulnerability of transgender people, and the need to exercise due caution in the context of both RTÉ Guidelines and Broadcasting Authority of Ireland codes. In the context described above, RTÉ believes that the nature of the comedy dialogue and character depictions is not inappropriate and does not overstep the mark of what is acceptable under Content Rule 3.4.

Decision of the Compliance Committee:

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

- The focus of the *BAI Code of Programme Standards* is on ensuring a balance between the need to protect audiences from harm and from undue offence and the need to leave broadcasters free to air programmes that can, at times, be challenging and which therefore may on occasion offend some viewers and listeners. For this reason, the rules require the portrayal of different groups and individuals in society to be undertaken in an appropriate and justifiable manner. The Code also prohibits content that will support and/or condone discrimination against groups and individuals in society as well as content that stigmatises or stereotypes people with a disability. Accordingly, the Code places an obligation on broadcasters to take particular care when portraying individuals and groups who may be subject to discrimination in Irish society.
- In this context, the Committee noted that the piece was in an established 'broad-comedy' tradition characterised by a style of humour that is unsubtle and treats characters as caricatures. This was evident to the Committee from the consistently exaggerated treatment in the programme of all characters. While noting that this type of comedy will not appeal to all viewers, the Committee did not consider that the treatment of the transgender character 'Nualla' differed from that of the other characters in a manner that would indicate that the portrayal of this character was inappropriate or unjustified, would support or condone discrimination or amounted to the stereotyping or stigmatising of people with a disability.
- Having reviewed the programme, the Committee was of the view that the content did not infringe the requirements of the *Code of Programme Standards*. The Committee noted that the programme was aired during a time-slot where comedy content of an adult nature is broadcast. As such, audiences would have been familiar with the type of content for this time-slot. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. John Cotter

Ref. No. 66/14

Station:

RTÉ Radio 1

Programme:

Today with Seán O'Rourke

Date:

3rd April 2014

Complaint Summary:

Mr. Cotter's complaint is submitted under the Broadcasting Act 2009, 48(1)(b)(*Code of Programme Standards* - section 3.4.2, Persons and Groups in Society).

The complaint concerns text messages that were read out by the presenter from listeners following an item on his show regarding members of the Traveller Community. The complainant states the item broadcast was in his opinion quite good and featured members of the Traveller Community – women mostly or exclusively – talking about the discrimination to which they were subjected. The complainant states that the text messages read out following this item were disparaging of Travellers collectively. The complainant does not believe it is fair to broadcast such generalised derogatory comments, especially about a minority group that is widely discriminated against in this country, and which is recognised in Irish Equality legislation.

The complainant further states it is, in his opinion, hardly a coincidence that the suicide rate among Travellers, an oppressed minority, is six times higher than among the settled population. He states that one of the Traveller women interviewed on the programme said she had lost two of her children to suicide. The complainant states that if that woman were a member of the settled population, it is inconceivable that RTÉ would broadcast text messages shortly after the interview denigrating the woman by reference to the class of people to which she belonged.

Broadcaster's Response:

Initial response to complainant:

RTÉ states that the complainant is correct that the comments/texts displayed a negative attitude towards Travellers. The broadcaster states that in choosing to communicate them to listeners, RTÉ were very conscious of the need to balance an accurate editorial reflection of the comments they had received with their obligations towards vulnerable groups in society under RTÉ Journalism and Content Standards Guidelines and the *BAI Code of Programme Standards*. In selecting these comments from a significant number of negative texts and mails received – many of them far more antagonistic to Travellers than those broadcast – RTÉ believes that a responsible balance was struck between these two responsibilities.

Response to BAI:

RTÉ states a draft report to the *Justice, Defence and Equality Committee of the Oireachtas* on Traveller ethnicity was the occasion of a report on the Traveller perspective on recognising Travellers as a distinct ethnic group. They state that this extensive and sympathetic report of approximately 18-minutes interviewed several Traveller women about discrimination, poverty and suicide and was a follow-up to a previous item about Travellers living in squalor on a site in Spring Lane in Cork.

Broadcasting Complaint Decisions

The broadcaster states that following the report (and the Eleven O'Clock News), the presenter read two brief comments from listeners in response to the report. The broadcaster states that it is necessary to say that the reactions of listeners to the item were significantly negative in their opinions of the Travelling community, in many ways exemplifying the negative attitudes referred to in the interviews as a cause for the necessity of recognising Travellers' ethnicity. The broadcaster states that comments not broadcast included allegations of criminal behaviour, of being unwilling to work and of benefitting disproportionately from housing and other social protection measures. The broadcaster states that the editorial decision to broadcast some of the more temperate comments showed good judgement in relation to balancing the requirements of impartial journalism and of free speech with the necessity to avoid undue offence towards vulnerable groups in society under RTÉ Journalism and Content Standards Guidelines and the *BAI Code of Programme Standards*.

There was in the presentation of these comments absolutely no support or condoning whatsoever of the views expressed in them or of discrimination of any kind, and therefore no infringement of Rule 3.4.2 or of any section of BAI codes.

Decision of the Compliance Committee:

The Compliance 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 view, the Committee had regard to the following:

- When assessing a programme, the Committee has regard to the broadcast item as a whole. For this reason, in its consideration of the complaint, the Committee did not consider in isolation the text messages that are the focus of the complaint. Rather, the Committee had regard to the text messages and the preceding interview with members of the Traveller Community.
- The Committee was of the view that the interview with members of the Traveller Community raised no issues in respect of the *Code of Programme Standards*.
- While noting that the programme included a number of text messages from listeners that included content that was derogatory in relation to the Traveller Community, the Committee was of the view that these comments, when taken together with the programme item as a whole, could not be considered to support or condone discrimination against members of the Traveller Community. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Ms. Karen Raine

Ref. No. 67/14

Station:

RTÉ Two

Programme:

'The Centre'

Date:

24th March 2014

Complaint Summary:

Ms. Raine's complaint is submitted under the Broadcasting Act 2009, 48(1)(b)(harm and offense)(*Code of Programme Standards - Section 3.4.2, Person and Groups in Society*).

The complainant states that the programme portrays transgender people in a negative stereotypical fashion and they are the butt of several jokes throughout the programme. The complainant states that transgender people are vulnerable to discrimination and physical violence. She states that this vulnerability is due to stereotyping, which she states this programme perpetuates. The complainant believes the programme has the potential to cause prejudice and hatred of transgender people.

Broadcaster's Response:

Initial response to complainant:

RTÉ state that it accepts the broader point made by the complainant regarding the specific vulnerability of transgender people and the necessity to exercise caution in representations of transgender characters. It is not RTÉ's intention to go beyond what is appropriate or justifiable in depicting vulnerable groups, especially ones where inappropriate depictions could have a negative impact on mental health.

RTÉ state that 'The Centre' is a comedy full of exaggerated characters. In the case of 'Nualla', she is a transgendered character who is accepted unreservedly by her co-workers and those who use the community centre and is presented onscreen no differently from them. While, as with all comedy, the characters presented are, to some degree, 'types', they are also seen as individuals with particular traits and weaknesses; 'Nualla' is not presented as being representative of transgendered people. She is the first leading character to appear, at a point when life in The Centre is stable and cordial. It is made explicitly clear in the voiceover that she and other characters play a very positive role in creating a very normal, uneventful environment.

The broadcaster states that this routine, humdrum environment is thrown into disarray and challenged by the arrival of the comedy grotesque 'Amanda Menton' who is clearly introduced as a highly aggressive, dislikeable character. She represents the antithesis of the community spirit displayed by all the other characters, including 'Nualla' and is an unsavoury selfish creation. 'Amanda' outwardly has the trappings of 'Celtic Tiger' era success – glamorous cloths, media success, business acumen, high self-esteem, but is very obviously unscrupulous and self-serving to the core. In effect, the exaggerated cartoon character of 'Amanda' is an equal opportunities offender; she insults each and every character she comes across, in the interests of nakedly pursuing her own self-interest. Set against this, the people that she attacks and intimidates are overwhelmingly positive, likeable characters, who are interested in advancing the broader sense of community that 'The Centre' embodies. In this context, it is RTÉ's view that LGBT characters should not be treated differently.

Broadcasting Complaint Decisions

The particular character of 'Nualla' is presented alongside other characters – working and middle class, overweight and thin, obsessive and slovenly – and is treated no differently from them.

The broadcaster states that all of the characters in the programme are exaggerated and there is a great deal of 'clowning'. It is not realistic observational comedy, but rather is designed to deliver absurdist gags, familiar to Irish and international audiences. Clearly this is not to everyone's taste, however, RTÉ claim it does take care to ensure that the sometimes challenging nature of the material is well-flagged in the promotion of the programme and specifically in the continuity announcement which introduces the programme.

Response to BAI:

In responding to the complainant's original complaint to RTÉ in respect of this programme, RTÉ did so in the context of Content Rule 3.4 of the *Code of Programme Standards*, cited by the complainant. For this reason, the RTÉ response to the referral to BAI does not differ greatly from that original response.

The broadcaster states that *The Centre* is a comedy full of exaggerated characters. In the case of 'Nualla', she is a transgendered character who is accepted unreservedly by her co-workers and those who use the community centre and is presented onscreen no differently from them. While, as with all comedy, the characters presented are, to some degree, 'types', they are also seen as individuals with particular traits and weaknesses: 'Nualla' is not presented as being representative of transgender people, not as a stereotype, but as being a particular person, with her own foibles arising from her personality and not her gender identity.

The broadcaster states that 'Nualla' is the first leading character to appear in the programme, at a point when life in *The Centre* is stable and cordial, before the arrival of the disruptive force which will propel the narrative. It is made explicitly clear in the voiceover that she and the other characters play a very positive role in creating a very normal, uneventful environment.

The broadcaster states that in portraying the tension between community spirit and self-interest, centred on the satirical portrayal of a character such as 'Amanda' who voices prejudices in a ruthlessly inconsiderate manner, RTÉ appreciates that there is a fine line to be walked. The broadcaster states that sitcoms here and abroad often use the device of including a character whose views and opinions are so risible – and unsympathetic – that they undermine prejudice (rather than perpetuate or amplify it). 'Alf Garnett' from the 1960s BBC comedy *Till Death Do Us Part* is a classic example. The 'Amanda' character is in that tradition and RTÉ believes that producing such social satire is a useful as well as entertaining aspect of their brief as a broadcaster.

RTÉ wishes to underline again its recognition of the specific vulnerability of transgender people, and the need to exercise due caution in the context of both RTÉ Guidelines and Broadcasting Authority of Ireland codes. In the context described above, RTÉ believes that the nature of the comedy dialogue and character depictions is not inappropriate and does not overstep the mark of what is acceptable under Content Rule 3.4.

Broadcasting Complaint Decisions

Decision of the Compliance Committee:

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

- The focus of the *BAI Code of Programme Standards* is on ensuring a balance between the need to protect audiences from harm and from undue offence and the need to leave broadcasters free to air programmes that can, at times, be challenging and which therefore may on occasion offend some viewers and listeners. For this reason, the rules prohibit content that will support and/or condone discrimination against groups and individuals in society.
- In this context, the Committee noted that the piece was in an established 'broad-comedy' tradition characterised by a style of humour that is unsubtle and treats characters as caricatures. This was evident to the Committee from the consistently exaggerated treatment in the programme of all characters. While noting that this type of comedy will not appeal to all viewers, the Committee did not consider that the treatment of the transgender character 'Nualla' differed from that of the other characters in a manner that would indicate that the portrayal of this character was one that would support or condone discrimination.
- Having reviewed the programme, the Committee was of the view that the content did not infringe the requirements of the *Code of Programme Standards*. The Committee noted that the programme was aired during a time-slot where comedy content of an adult nature is broadcast. As such, audiences would have been familiar with the type of content for this time-slot. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Ms. Maria Walsh

Ref. No. 68/14

Station:

RTÉ Two

Programme:

'The Centre'

Date:

24 March 2014

Complaint Summary:

Ms. Walsh's complaint is submitted under the Broadcasting Act 2009, 48(1)(b)(harm and offense)(Code of Programme Standards - sections 3.4.1 and 3.4.2, Persons and Groups in Society).

The complaint concerns an edition of RTÉ's 'The Centre', a comedy set in a community centre in Dublin. The complainant states that the portrayal of a transgender individual in this programme, which she describes as one done in an unfeeling manner and for cheap laughs, e.g. *'King Kong in a thong'*, cannot be justified. The complainant states that the impact of this portrayal on a vulnerable group such as the transgender community, the majority of who struggle with issues of self-esteem and self-worth, should have been considered by RTÉ. The complainant states that transgender people face a struggle every day to be accepted in Irish society and should not be treated either as objects of ridicule or as 'Panto Dames'. The complainant states that RTÉ should not encourage the further marginalisation of this group of people, a group who struggle with prejudice every day.

Broadcaster's Response:

Initial response to complainant:

RTÉ states that it accepts the broader point made by the complainant regarding the specific vulnerability of transgender people and the necessity to exercise caution in representations of transgender characters. It is not RTÉ's intention to go beyond what is appropriate or justifiable in depicting vulnerable groups, especially ones where inappropriate depictions could have a negative impact on mental health.

RTÉ further states that 'The Centre' is a comedy full of exaggerated characters. In the case of 'Nualla', she is a transgendered character who is accepted unreservedly by her co-workers and those who use the community centre and is presented onscreen no differently from them. While, as with all comedy, the characters presented are, to some degree, 'types', they are also seen as individuals with particular traits and weaknesses; 'Nualla' is not presented as being representative of transgendered people. She is the first leading character to appear, at a point when life in The Centre is stable and cordial. It is made explicitly clear in the voiceover that she and other characters play a very positive role in creating a very normal, uneventful environment.

The broadcaster states that this routine, humdrum environment is thrown into disarray and challenged by the arrival of the comedy grotesque 'Amanda Menton' who is clearly introduced as a highly aggressive, dislikeable character. She represents the antithesis of the community spirit displayed by all the other characters, including 'Nualla' and is an unsavoury selfish creation. 'Amanda' outwardly has the trappings of 'Celtic Tiger' era success – glamorous cloths, media success, business acumen, high self-esteem, but is very obviously unscrupulous and self-serving to the core. In effect, the exaggerated cartoon character of 'Amanda' is an equal opportunities offender; she insults each and every character she comes across, in the interests of nakedly pursuing her own self-interest.

Broadcasting Complaint Decisions

Set against this, the people that she attacks and intimidates are overwhelmingly positive, likeable characters, who are interested in advancing the broader sense of community that 'The Centre' embodies. In this context, it is RTÉ's view that LGBT characters should not be treated differently. The particular character of 'Nualla' is presented alongside other characters – working and middle class, overweight and thin, obsessive and slovenly – and is treated no differently from them.

The broadcaster states that all the characters in the programme are exaggerated and there is a great deal of 'clowning'. It is not realistic observational comedy, but rather is designed to deliver absurdist gags, familiar to Irish and international audiences. Clearly this is not to everyone's taste however; RTÉ claims it does take care to ensure that the sometimes challenging nature of the material is well-flagged in the promotion of the programme and specifically in the continuity announcement which introduces the programme.

Response to BAI:

In responding to the complainant's original complaint to RTÉ in respect of this programme, RTÉ did so in the context of Content Rule 3.4 of the *Code of Programme Standards*, cited by the complainant. For this reason, the RTÉ response to the referral to BAI does not differ greatly from that original response.

The broadcaster states that *The Centre* is a comedy full of exaggerated characters. In the case of 'Nualla', she is a transgendered character who is accepted unreservedly by her co-workers and those who use the community centre and is presented onscreen no differently from them. While, as with all comedy, the characters presented are, to some degree, 'types', they are also seen as individuals with particular traits and weaknesses: 'Nualla' is not presented as being representative of transgender people, not as a stereotype, but as being a particular person, with her own foibles arising from her personality and not her gender identity.

The broadcaster states that 'Nualla' is the first leading character to appear in the programme, at a point when life in *The Centre* is stable and cordial, before the arrival of the disruptive force which will propel the narrative. It is made explicitly clear in the voiceover that she and the other characters play a very positive role in creating a very normal, uneventful environment.

The broadcaster states that in portraying the tension between community spirit and self-interest, centred on the satirical portrayal of a character such as 'Amanda' who voices prejudices in a ruthlessly inconsiderate manner, RTÉ appreciates that there is a fine line to be walked. Sitcoms here and abroad often use the device of including a character whose views and opinions are so risible – and unsympathetic – that they undermine prejudice (rather than perpetuate or amplify it). 'Alf Garnett' from the 1960s BBC comedy *Till Death Do Us Part* is a classic example. The 'Amanda' character is in that tradition and RTÉ believes that producing such social satire is a useful as well as entertaining aspect of their brief as a broadcaster.

RTÉ wishes to underline again its recognition of the specific vulnerability of transgender people, and the need to exercise due caution in the context of both RTÉ Guidelines and Broadcasting Authority of Ireland codes. In the context described above, they believe that the nature of the comedy dialogue and character depictions is not inappropriate and does not overstep the mark of what is acceptable under Content Rule 3.4.

Broadcasting Complaint Decisions

Decision of the Compliance Committee:

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

- The focus of the *BAI Code of Programme Standards* is on ensuring a balance between the need to protect audiences from harm and from undue offence and the need to leave broadcasters free to air programmes that can, at times, be challenging and which therefore may on occasion offend some viewers and listeners. For this reason, the rules require the portrayal of different groups and individuals in society to be undertaken in an appropriate and justifiable manner. The Code also prohibits content that will support and/or condone discrimination against groups and individuals in society. Accordingly, the Code places an obligation on broadcasters to take particular care when portraying individuals and groups who may be subject to discrimination in Irish society.
- In this context, the Committee noted that the piece was in an established 'broad-comedy' tradition characterised by a style of humour that is unsubtle and treats characters as caricatures. This was evident to the Committee from the consistently exaggerated treatment in the programme of all characters. While noting that this type of comedy will not appeal to all viewers, the Committee did not consider that the treatment of the transgender character 'Nualla' differed from that of the other characters in a manner that would indicate that the portrayal of this character was inappropriate or unjustified or was one that would support or condone discrimination.
- Having reviewed the programme, the Committee was of the view that the content did not infringe the requirements of the *Code of Programme Standards*. The Committee also noted that the programme was aired during a time-slot where comedy content of an adult nature is broadcast. As such, audiences would have been familiar with the type of content for this time-slot. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Ms. Annabelle Larousse

Ref. No. 70/14

Station:

RTÉ Two

Programme:

'The Centre'

Date:

24th March 2014

Complaint Summary:

Ms. Larousse's complaint is submitted under the Broadcasting Act 2009, 48(1)(b)(harm and offense)(*Code of Programme Standards - Sections 3.4.1 & 3.4.2, Persons and Groups in Society*).

The complainant states that she was gobsmacked that RTÉ would even consider broadcasting this show which she believes was designed to hit and to hurt. Furthermore, she states that it singles out some small minorities i.e. Transgender people, Muslims and Travellers in particular, who are powerless and therefore can be easily targeted for abuse.

The complainant states that her complaint relates to the depiction of one of the characters in the programme, named 'Nualla'. The complainant rejects RTÉ contention that this character is an "exaggerated" transgender person and a "transgender character that is accepted unreservedly by her co-workers". The complainant states that, at one point, one of the characters makes a joke about prostitutes in the Far East who "have mickeys". The complainant states that the other characters in this scene starts laughing, including 'Nualla', even though she is obviously uncomfortable with the joke. Then one of the characters asks 'Nualla' what she is laughing about. The complainant states that it is made clear to all the characters as well as the audience that the joke is, in fact, on 'Nualla'.

The complainant is a transgender person and is of the view that this programme encourages people to treat her with scorn and furthermore that by airing it, RTÉ singled out certain minorities for jeering and mockery in order to give the audience a cheap laugh at them. The complainant maintains that the programme does not depict transgender people as they really are but is a caricature of them, portraying all the cheap misconceptions that non-transgender people have about them. The complainant states that this lack of understanding is illustrated by the thought that transgender people are men who want to be women or women who want to be men. The complainant claims this is a mistaken viewpoint.

The complainant states that the programme itself helps to perpetuate cisgender ignorance and in turn leads to stereotyping and misconceptions about transgender people. The complainant further believes this programme will encourage violence towards transgender people.

Broadcaster's Response:

Initial response to complainant:

RTÉ state that it accepts the broader point made by the complainant regarding the specific vulnerability of transgender people and the necessity to exercise caution in representations of transgender characters. It is not RTÉ's intention to go beyond what is appropriate or justifiable in depicting vulnerable groups, especially ones where inappropriate depictions could have a negative impact on mental health.

Broadcasting Complaint Decisions

RTÉ state that 'The Centre' is a comedy full of exaggerated characters. In the case of 'Nualla', she is a transgendered character who is accepted unreservedly by her co-workers and those who use the community centre and is presented onscreen no differently from them. While, as with all comedy, the characters presented are, to some degree, 'types', they are also seen as individuals with particular traits and weaknesses; 'Nualla' is not presented as being representative of transgendered people. She is the first leading character to appear, at a point when life in The Centre is stable and cordial. It is made explicitly clear in the voiceover that she and other characters play a very positive role in creating a very normal, uneventful environment.

The broadcaster states that this routine, humdrum environment is thrown into disarray and challenged by the arrival of the comedy grotesque 'Amanda Menton' who is clearly introduced as a highly aggressive, dislikeable character. She represents the antithesis of the community spirit displayed by all the other characters, including 'Nualla' and is an unsavoury selfish creation. 'Amanda' outwardly has the trappings of 'Celtic Tiger' era success – glamorous cloths, media success, business acumen, high self-esteem, but is very obviously unscrupulous and self-serving to the core. In effect, the exaggerated cartoon character of 'Amanda' is an equal opportunities offender; she insults each and every character she comes across, in the interests of nakedly pursuing her own self-interest. Set against this, the people that she attacks and intimidates are overwhelmingly positive, likeable characters, who are interested in advancing the broader sense of community that 'The Centre' embodies. In this context, it is RTÉ's view that LGBT characters should not be treated differently. The particular character of 'Nualla' is presented alongside other characters – working and middle class, overweight and thin, obsessive and slovenly – and is treated no differently from them.

The broadcaster states that all the characters in the programme are exaggerated and there is a great deal of 'clowning'. It is not realistic observational comedy, but rather is designed to deliver absurdist gags, familiar to Irish and international audiences. Clearly this is not to everyone's taste, however, RTÉ claim it does take care to ensure that the sometimes challenging nature of the material is well-flagged in the promotion of the programme and specifically in the continuity announcement which introduces the programme.

Response to BAI:

In responding to the complainant's original complaint to RTÉ in respect of this programme, RTÉ did so in the context of Content Rule 3.4 of the *Code of Programme Standards*, cited by the complainant. For this reason, the RTÉ response to the referral to BAI does not differ greatly from that original response.

The broadcaster states that *The Centre* is a comedy full of exaggerated characters. In the case of 'Nualla', she is a transgendered character who is accepted unreservedly by her co-workers and those who use the community centre and is presented onscreen no differently from them. While, as with all comedy, the characters presented are, to some degree, 'types', they are also seen as individuals with particular traits and weaknesses: 'Nualla' is not presented as being representative of transgender people, not as a stereotype, but as being a particular person, with her own foibles arising from her personality and not her gender identity.

Broadcasting Complaint Decisions

The broadcaster states that 'Nualla' is the first leading character to appear in the programme, at a point when life in The Centre is stable and cordial, before the arrival of the disruptive force which will propel the narrative. It is made explicitly clear in the voiceover that she and the other characters play a very positive role in creating a very normal, uneventful environment.

The broadcaster states that in portraying the tension between community spirit and self-interest, centering on the satirical portrayal of a character such as 'Amanda' who voices prejudices in a ruthlessly inconsiderate manner, RTÉ appreciates that there is a fine line to be walked. Sitcoms here and abroad often use the device of including a character whose views and opinions are so risible – and unsympathetic – that they undermine prejudice (rather than perpetuate or amplify it). 'Alf Garnett' from the 1960s BBC comedy *Till Death Do Us Part* is a classic example. The 'Amanda' character is in that tradition and RTÉ believes that producing such social satire is a useful as well as entertaining aspect of their brief as a broadcaster.

RTÉ wishes to underline again its recognition of the specific vulnerability of transgender people, and the need to exercise due caution in the context of both RTÉ Guidelines and Broadcasting Authority of Ireland codes. In the context described above, RTÉ believes that the nature of the comedy dialogue and character depictions is not inappropriate and does not overstep the mark of what is acceptable under Content Rule 3.4.

Decision of the Compliance Committee:

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

- The focus of the *BAI Code of Programme Standards* is on ensuring a balance between the need to protect audiences from harm and from undue offence and the need to leave broadcasters free to air programmes that can, at times, be challenging and which therefore may on occasion offend some viewers and listeners. For this reason, the rules require the portrayal of different groups and individuals in society to be undertaken in an appropriate and justifiable manner. The Code also prohibits content that will support and/or condone discrimination against groups and individuals in society. Accordingly, the Code places an obligation on broadcasters to take particular care when portraying individuals and groups who may be subject to discrimination in Irish society.
- In this context, the Committee noted that the piece was in an established 'broad-comedy' tradition characterised by a style of humour that is unsubtle and treats characters as caricatures. This was evident to the Committee from the consistently exaggerated treatment in the programme of all characters. While noting that this type of comedy will not appeal to all viewers, the Committee did not consider that the treatment of the transgender character 'Nualla' differed from that of the other characters in a manner that would indicate that the portrayal of this character was inappropriate or unjustified or was one that would support or condone discrimination.

Broadcasting Complaint Decisions

- Having reviewed the programme, the Committee was of the view that the content did not infringe the requirements of the *Code of Programme Standards*. The Committee also noted that the programme was aired during a time-slot where comedy content of an adult nature is broadcast. As such, audiences would have been familiar with the type of content for this time-slot. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Anonymity Granted

Ref. No. 73/14

Station:

Classic Hits 4FM

Programme:

'The Late Show with Niall Boylan

Date:

30th April 2014

Complaint Summary:

This complaint has been submitted under the Broadcasting Act 2009, 48(1)(b)(harm and offense)(Code of Programme Standards 2.2, 3.4, 3.5) and section 48(1)(a) fairness, objectivity and impartiality in news and current affairs.

The complaint refers to a discussion about a newspaper article entitled "*Because I am gay, I am denied the chance to potentially save someone's life*" written by journalist Mr. Edward Smith who is a gay man.

The complainant states that he rang into the show to take part in a discussion following the question posed by the presenter "*Is it discrimination not to allow gay men to give blood?*" The complainant states that he gave his view that not allowing gay people to give blood is an act of discrimination. The complainant states that the presenter then became disrespectful to him when he questioned the figures regarding the number of gay people with H.I.V. as against heterosexuals, with the presenter saying "*ya can go on all you like about it but the facts are there*". The presenter continued to argue that more gay people have H.I.V. than heterosexuals. The complainant claims that the presenter displayed a lack of respect for him as a guest on air. Later the complainant interjected in the conversation querying "*What about bisexual people?*" (Giving blood). The complainant claims the presenter this time showed complete disregard for him by replying, words to the effect - "*Will ya stop with your bisexuals and trisexuals and all that. You're not bisexual, you're gay so what are ya on about?*" The complainant found this to be insulting. The presenter then proceeded to speak with the other guests without allowing the complainant an opportunity to respond to his uncalled for insults.

The complainant did interject again later and queried the presenter's tone and lack of courtesy towards him to which the presenter stated "*If you can't take a joke Liam (the on-air name given to the complainant to protect his anonymity) what's the point?*" The complainant claims he did not provoke the presenter at any time but was calm and respectful. He was taken off-air before allowing him to elaborate and argue his point and he believes this was unfair. The complainant also claims the presenter was unprofessional in his behaviour towards him.

Broadcaster's Response:

Initial response to complainant:

Classic Hits 4FM state that the Niall Boylan Show deals with serious and sensitive issues on a nightly basis, however, at times conversations can include some humour to place listeners and callers at ease.

The guest in the studio on the night in question was Mr. Edward Smith, a gay man and journalist and the discussion was at times, light-hearted. This was the case when the complainant interjected with "*What about a bi-sexual man?*" Continuing in the jovial manner of the discussion at that particular time, the presenter said "*Will you stop mentioning bi-sexuals, tri-sexuals an all sort of sexual. Let's stick to the facts*".

Broadcasting Complaint Decisions

At that point the complainant said *"If you are going to invite me on your show, I suggest that you have a bit of respect... and I suggest that you watch the way you are speaking to me"*. The broadcaster states that Niall Boylan seemed genuinely shocked that he had upset you in any way and suggested that the conversation be cut short.

At first the guest in the studio thought the complainant was upset with comments he had made, such was the confusion. The broadcaster claims this proves that Niall Boylan did not mean to offend in any way.

The broadcaster regrets that the complainant felt disrespected. However, having listened to the audio and spoken to the presenter, Classic Hits 4FM does not believe the presenter meant to make the complainant feel this way.

Response to BAI:

Classic Hits 4FM state that the Niall Boylan Show is an adult-oriented phone-in programme broadcast after the watershed of 9pm. On the night in question, Niall Boylan was discussing an article that appeared in the Irish Independent entitled *'Because I am gay, I am denied the chance to potentially save someone's life'*. It was written by journalist and gay man Mr. Edward Smith who was invited as a guest into the studio to discuss his article.

The broadcaster states that the discussion on the ban on the gay community donating blood went on for 20 minutes before Niall invited callers on air to answer the question *'Is it discrimination to ban gay men from giving blood?'* The complainant came on air to make his point using the name 'Liam' to protect his anonymity. He spent 6 minutes and 15 seconds debating his point on the topic. Later he interjected on a discussion being held by Niall and his studio guest. The broadcaster states that Niall was attempting to stick to the facts of the topic during a jovial part of the conversation when the complainant said *"What about bi-sexual men?"* Keeping the jovial manner and attempting to stick to the well researched facts, Niall said *"Will you stop mentioning bi-sexuals and tri-sexuals and all sorts of sexual"*. The broadcaster claims that at this point the complainant became hostile and the host decided it was in the best interest of the show to end their conversation.

Classic Hits 4FM claim that it attempted to resolve the matter with the complainant through both email and a telephone conversation. The Producer of the show, Mr. Mike Hogan, conveyed his regrets and explained that the host did not mean to offend him in any way. The complainant requested that the host call him personally to apologise. It was explained that this was not station policy.

Classic Hits 4FM respond as follows under the sections cited by the complainant:

2.2. Due Care

The complainant was given 6 minutes and 15 seconds on air to make his points on the topic in a balanced and fair manner. The host did not attempt to offend him in any way.

3.4 Persons and Groups in Society

The topic of the gay community being banned from donating blood is a sensitive and emotive issue. Classic Hits 4FM is happy that raising the topic in itself further highlights the plight for full equality in our society. Any time discrimination was condoned on the programme, it was challenged by either the host or a contributor.

Broadcasting Complaint Decisions

The gay community was well represented on the night in question with the studio guest being a gay man and three callers from the gay community, including the complainant, taking part.

3.5 Factual Programming

The Niall Boylan Show endeavours to be fair and to respect every caller and achieve balance in its broadcasts. On the night in question, there were 11 callers on air including the complainant. Five callers believed the ban on the gay community giving blood should remain in place while six, including the complainant, believed it should be lifted.

Decision of the Compliance Committee:

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

- The Committee had regard to the programme format and the issue of audience expectation. In this regard, the programme is an audience-driven phone-in show and is characterised by fast moving and robust exchanges between callers to the programme or between the programme presenter and callers. The aim of such programmes is to provide a high degree of audience input and callers to such programmes will contribute at varying length depending on the nature of the discussion and the content of a caller's contribution.
- In this context, it was the Committee's view that it is appropriate that the programme presenter and/or producer manage the flow of callers and make editorial decisions regarding calls. This includes deciding which contributors to place on air as well as deciding when to end a given contribution on the grounds that it is either no longer appropriate or simply to make time for the views of others.
- Following a review of the broadcast, it was the Committee's view that there was no evidence to indicate that the caller had been treated in a manner different to other callers to the programme. The Committee noted that the caller was afforded airtime to give his opinions and was also afforded airtime to make comments that were critical of the presenter's treatment of him on-air.
- In terms of the substance of the discussion which dealt with the Irish prohibition on gay people giving blood for transfusions; while the Committee noted that some of the comments and contributions aired were not supported by factual information, it was of the view that a broad range of perspectives were provided on this issue, including contributions by callers and by the guest who was in studio and on-air for an extended period of time.
- Taking the above into account, the Committee did not agree with the complainant that the broadcaster did not show due care in the treatment of the complainant or that the treatment of the current affairs topic under discussion lacked fairness, objectivity or impartiality or was undertaken in a manner that was contrary to the requirement in respect of the groups and individuals in society and factual programming as set out in the *Code of Programme Standards*. As such, the complaint has been rejected.

Resolved at Executive Complaints Forum

Complaint made by: Mr. William Mongey

Ref. No. 03/14

Station:

RTÉ Radio 1

Programme:

Drivetime

Date:

20th December 2013

Complaint Summary:

Mr. Mongey's complaint is submitted under the Broadcasting Act 2009, section 48(1)(a) fairness, objectivity and impartiality in current affairs; *Code of Fairness, Objectivity and Impartiality in News and Current Affairs*, Rules 4.1; 4.2; 4.22 and 4.23.

The complaint centres on an opinion piece by journalist, Ms. Alison O'Connor, regarding the equality of men and women. According to the complainant, Ms. O'Connor expounded a political philosophy and adopted a sneering derogatory tone which damages men. The complainant cites the language used in the piece by Ms. O'Connor to describe her encounters with men. In his submission the complainant states that men are not given a platform on RTÉ to speak about women in the way that he states Ms. O'Connor was permitted to speak about men. To emphasise this point, the complainant refers to sections of Ms. O'Connor's broadcast and in his submission reverses the gender roles in respect of those sections. For example, women "*spluttering and spitting and the rapid gathering of brain cells to come up with a response that won't get them into trouble*" or women who "*refuse to take part if the only hormone going to be involved is estrogen*" or a woman being described as "*some twit being offensive to a male*". The complainant states that men are not given the platform to speak about women in this way.

The complainant further claims a lack of balance in the piece and states there was no mention that there are areas in Ireland where men are under-represented and where their voices are not heard. He also states that there was no mention either that the gender pay gap becomes remarkably slim once men's longer working hours are taken into account or that men are more likely to work in dangerous professions or that women may choose professions which are less well paid.

The complainant states that when Ms. O'Connor finished her piece, the presenter's comments immediately afterwards made it clear that she was expressing agreement with the opinions expressed.

The complainant states that although this is an opinion piece, even opinions have to be based on balanced facts and broadcasters have a responsibility not to leave listeners thinking that that's all there is to be said.

Broadcaster's Response:

Initial response to complainant:

In their reply to the complainant RTÉ state that it was not the intention of the presenter to endorse any opinions expressed in this segment of the programme. The comments were a tongue-in-cheek response to the brio with which Ms. O'Connor delivered her opinion and not an expression of agreement.

Broadcasting Complaint Decisions

RTÉ also rejected the contention by the complainant that the Ms. O'Connor's tone was sneering and derogatory but rather the column takes the form of an exhortatory message to women. The essential message is to women about what Ms. O'Connor believes to be unacceptable language or behaviour.

On the issue of balance, RTÉ states that it is worth noting that the low levels of representation of women or women's perspectives in the broadcast media are often remarked upon. This column therefore, presents a position that is not often heard in the media and actually represents an effort to address that imbalance.

Response to BAI:

RTÉ state that the *Drivetime* Friday Column is a regular feature of the programme, an authored segment or personal view in a slot that is rotated between a range of commentators. It is similar to an opinion piece in a newspaper and covers a wide range of topics. Regular listeners to the programme would be familiar with the feature and the audience expectation is of an opinion piece. The opinion is expressed from the point of view of the contributor and does not represent the views of the broadcaster.

The broadcaster states that the nature of the column is very clearly signalled to listeners at the outset by the programme's presenter. On this occasion, the introduction was as follows:

"Every day leading up to Christmas we're hearing from people who've written radio columns for us throughout the year. Today it's the turn of the political commentator Alison O'Connor and in her Christmas column for Drivetime Alison invites the men of Ireland to take the pledge."

The broadcaster states that the column by Ms. O'Connor invited men *"to promise to be the best feminists they can in 2014."* Ms O'Connor clearly identified that the feminist viewpoint on which her observations were based was that of *"the question being simply whether you believe in the equality of men and women."* This equality is a matter of social and cultural consensus and legislative fact, not of public controversy or debate and not a topic of "divisive political philosophy" as claimed by the complainant.

The broadcaster states that Ms. O'Connor's column was an encouragement to men, in their dealings with women and amongst themselves, to behave in a way which respects the equality of women and men. Its style was humorously sardonic.

In his correspondence with RTÉ, the complainant touches on matters – such as family courts – to which no reference whatsoever, directly or indirectly is made in the column.

At the end of Ms. O'Connor's column, the presenter said:

"Go, Alison – that's Alison O'Connor there."

The broadcaster states that the phrase 'Go, Alison' may have been simply an appreciative response to Ms. O'Connor's performance and delivery – a context in which the phrases 'Go, girl' or 'You go, girl' are commonly used.

Broadcasting Complaint Decisions

The broadcaster states that insofar as “*Go, Alison*” may also have indicated the presenter’s agreement with Ms. O’Connor’s point of view, this was a point of view supportive of the equality of women, which is not a matter of public controversy or the subject of current public debate. Insofar as it might be construed as such support, the phrase “*Go, Alison*” did not amount to the advocacy by the presenter of a partisan position on a matter of public debate or controversy. And no comment whatsoever was made on behalf of the broadcaster.

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)(a) fairness, objectivity and impartiality in current affairs and the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs*, Rules 4.1; 4.2; 4.22; and 4.23, under which the complaint was submitted.

The complaint centred on an opinion piece, which was authored and read by journalist Alison O’Connor, and the presenter’s comments once the piece was finished. The piece was regarding equality of sexes and the complainant was of the opinion that it was derogatory towards men and was unfair as there was no balancing opinion. The complainant also stated that the presenter failed to remain partial as she made the comment “*Go, Alison – that’s Alison O’Connor there*” at the end of the piece.

Following a discussion the Forum was of the view that the audience would have been aware that the piece in question was an opinion piece, which is a regular slot with a familiar format. The Committee noted that the complainant was of the view that the item should have discussed different views on the issue of gender.

It was the view of the Forum that, had the item constituted a discussion, a balancing view may have been required, but the Forum was of the view that this was not a discussion but rather an authored piece about personal experience and viewpoint and it did not require a balancing view within the item itself. The Forum was also of the opinion, having reviewed the material that the item was not derogatory towards men. Instead, the Forum was of the view that Alison O’Connor was addressing men and women and doing so in a humorous manner.

The Forum considered the presenter’s comments at the end of the piece and did not find evidence that the presenter was endorsing the views expressed by Alison O’Connor or stating her own opinion. The Members were of the opinion that the presenter was simply acknowledging the item in an enthusiastic manner rather than pursuing an agenda or endorsing the views of the contributor.

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.

Broadcasting Complaint Decisions

Complaint made by: Mr. Noel Coogan

Ref. No. 52/14

Station:

RTÉ Radio 1

Programme:

Fáilte Isteach

Date:

8th February 2014

Complaint Summary:

Mr. Coogan's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b)(Code of Programme Standards – sections 2.2 due care and 3.5 factual programming).

The complainant states that at the beginning of the programme the presenter told listeners that he had had lunch during the week with Fr. Brendan Comiskey, Former Bishop of Ferns. The complainant states that it is his opinion that the stewardship of Fr. Comiskey caused some distress and pain to affected people in his diocese and in this context; the complainant states that the presenter's reference to Fr. Comiskey was unnecessary as it could cause further annoyance and hurt to some listeners, considering the manner in which the Bishop resigned from his position.

Broadcaster's Response:

Initial response to complainant:

There was no initial response to the complainant's letter of complaint.

Response to BAI:

RTÉ wishes to apologise unreservedly to the complainant for the lack of response to his initial complaint to the broadcaster. The fact that the programme presenter has been on sick leave should not have prevented a reply to his letter to RTÉ.

The programme opened with the presenter acknowledging the congratulations, both in person and by post, on foot of him celebrating 50 years in broadcasting. In this context, the presenter said:

"I want to greet Peter Duane and thank him for his lovely gift. Himself and Bishop Brendan Comiskey had lunch with me in town the other day, it was marvellous. And I [indecipherable] – I got Bishop Comiskey – he'd just been made Bishop – to sing a song. It's amazing, all the wonderful people. And Peter and Bishop Brendan, thank you both very much for a wonderful, wonderful time".

RTÉ recognises that the circumstances of the former bishop's resignation in the context of the sexual abuse of children in the Diocese of Ferns, as subsequently detailed in The Ferns Report of 2005, mean that references to him are a matter of sensitivity and could cause upset, particularly to individuals with close knowledge or experience of those events.

RTÉ does not believe that the reference to the former bishop on this occasion, in relation solely to personal friendship, would amount to a lack of protection of the audience from undue offence or from harm and therefore a breach of Content Principle 2.2. And while Content Rule 3.5 may not be entirely pertinent to this entertainment/music magazine programme, RTÉ does not believe that the reference, which made no connection to the circumstances of the bishop's resignation, could be said to cause undue distress or offence.

Broadcasting Complaint Decisions

Nevertheless, RTÉ and the presenter sincerely regret the upset which was caused to the complainant by reference to the bishop. RTÉ hopes that the complainant will accept those regrets in good faith and would like to offer again their apologies for the failure to respond to his initial complaint.

Decision of the Executive Complaints Forum:

When considering the complaint, the Members of the Forum reviewed the broadcast, the submissions of the complainant and the broadcaster. The Forum also had regard to the Broadcasting Act 2009, section 48(1)(b) (*Code of Programme Standards* – sections 2.2 and 3.4).

The complaint relates to a comment made by the presenter at the beginning of the programme when he informed listeners that he had had lunch during the week in the company of Fr. Brendan Comiskey, former Bishop of Ferns and another gentleman. The complainant is of the view that due to controversy surrounding the stewardship of Fr. Comiskey when he was Bishop of Ferns, mentioning on air that the presenter recently had lunch in his company, could cause annoyance and hurt to some listeners.

The Forum noted that the complaint does not fall under Section 3.4 of the *Code of Programme Standards* and therefore it was considered only under section 2.2 (due care). The programme opened with the presenter acknowledging congratulations which he received from various people on the occasion of his 50th year in broadcasting. He then thanked Fr. Comiskey and another man for their gifts they gave him and mentioned having lunch with both of them, which he enjoyed.

Having reviewed the programme, the Forum was of the view that this presenter has a particular personal style, acknowledging on air the people he meets and greets over time. In this vein, the presenter mentioned having lunch with Fr. Comiskey and another person and thanked them for their gift and time with him. The Forum was of the view that this was a harmless mention and not intended to offend or hurt any listeners. The Forum also took into account audience expectation and were cognisant that the style of presentation was easy going and informal. The Forum also noted the apology issued by the broadcaster on this occasion.

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.

