

2010

# Compliance Committee: Broadcasting Complaint Decisions



ÚDARÁS  
CRAOLACHÁIN  
NA hÉIREANN

BROADCASTING  
AUTHORITY  
OF IRELAND

Broadcasting Authority of Ireland

19/02/2010



---

## Contents

Upheld Complaints .....	3
Complaint made by: Mr. John McLoughlin, Ref. No. 459/09, <i>The Wide Angle</i> , Newstalk.....	3
Complaint made by: Mr. Michael McNally, Ref. No. 561/09, <i>Play TV</i> , TV3.....	6
Complaint made by: Mr. Martin Breen, Ref. No. 589/09, <i>Breakfast Show</i> , Newstalk.....	8
Complaint made by: Mr. Tom O’Grady, Ref. No. 611/09, <i>Advert RIAI</i> , RTÉ.....	10
Complaint made by: Mr. Brian J. More, Ref. No. 623/09, <i>Play TV</i> , TV3.....	13
Complaint made by: Architects’ Alliance, Ref. No. 627/09, <i>Advert RIAI</i> , RTÉ.....	15
Complaint made by: Ms. Carol-Ann Reynolds, Ref. No. 634/09, <i>Play TV</i> , TV3 .....	19
Resolved/Rejected/Invalid Complaints .....	22
Complaint made by: Ms. Ann Cleere, Ref. No. 453/09, <i>Tom Dunne Show</i> , Newstalk .....	22
Complaint made by: Mr. Paul O’Toole, Ref. No. 500/09, <i>Advert – Choose Radio</i> , Newstalk .....	23
Complaint made by: Mr. Michael Foley, Ref. No. 508/09, <i>Call from the Dáil</i> , Radio Kerry .....	25
Complaint made by: Mr. Eamon O’Brien, Ref. No. 509/09, <i>If Lynch had Invaded</i> , RTÉ .....	27
Complaint made by: Mr. Jim Larkin, Ref. No. 515/09, <i>The Gerry Ryan Show</i> , RTÉ.....	44
Complaint made by: Mr. Daniel O’Riordan, Ref. No. 523/09, <i>The Tubridy Show</i> , RTÉ .....	46
Complaint made by: Mrs, Margaret Fitzsimons, Ref. No. 526/09, <i>The Wide Angle</i> , Newstalk .....	48
Complaint made by: Mr. James O’Brien, Ref. No. 527/09, <i>Advert Dove</i> , RTÉ.....	49
Complaint made by: Mr. Joe Griffin, Ref. No. 531/09, <i>Spin talk</i> , Spin South West .....	51
Complaint made by: Mrs. X, Ref. No. 536/09, <i>Liveline</i> , RTÉ.....	52
Complaint made by: Mr. Noel Kenny, Ref. No. 543/09, <i>Tipp Today &amp; News</i> , Tipp FM.....	55
Complaint made by: Mrs. Anita Corfe, Ref. No. 548/09, <i>The Late Late Show</i> , RTÉ.....	57
Complaint made by: Mr. Patrick Mohally, Ref. No. 549/09, <i>Podge &amp; Rodge’s Stickit Inn</i> , RTÉ.....	60
Complaint made by: Mr. Michael Grant, Ref. No. 557/09, <i>The Gerry Ryan Show</i> , RTÉ.....	61
Complaint made by: Mr. Anthony Halpin, Ref. No. 559/09, <i>What in the World</i> , RTÉ.....	63
Complaint made by: Mr. James Clarke, Ref. No. 574/09, <i>The Late Late Show</i> , RTÉ.....	65
Complaint made by: Mr. Shane Hogan, Ref. No. 583/09, <i>The Apprentice</i> , TV3 .....	68
Complaint made by: Mr. James O’Brien, Ref. No. 584/09, <i>Advert Curries Electrical</i> , RTÉ.....	69
Complaint made by: Ms. Sharon Horkan, Ref. No. 590/09, <i>The Savage Eye</i> , RTÉ.....	71
Complaint made by: Mr. John Haverty, Ref. No. 598/09, <i>The Gerry Ryan Show</i> , RTÉ .....	74
Complaint made by: Drs. Devereux, Haynes & Power, Ref No. 602/09, <i>Crime Capitals</i> , TV3 .....	77
Complaint made by: Community Development Network Moyross, Ref No. 604/09, <i>Crime Capitals</i> TV3 .....	81
Complaint made by: Mr. & Mrs. M & J Reddy, Ref. No. 618/09, <i>The Gerry Ryan Show</i> , RTÉ .....	84
Complaint made by: Mr. Grégoire Murphy, Ref. No. 621/09, <i>Promo Battle of the Sexes</i> , RTÉ .....	87
Complaint made by: Mr. James McMahon, Ref. No. 632/09, <i>The Gerry Ryan Show</i> , RTÉ.....	89
Complaint made by: Ms. Laura Swift, Ref. No. 637/09, <i>Promo The Savage Eye</i> , RTÉ .....	92
Complaint made by: Ms. Karen Browne, Ref. No. 71/10, <i>The Savage Eye</i> , RTÉ .....	93



---

## Upheld Complaints

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

**Ref. No. 459/09**

Station:

Newstalk 106-108FM

Programme:

The Wide Angle

Date:

6 September 2009

### Complaint Summary:

Mr. McLoughlin's complaint submitted under the Broadcasting Act 2001, section 24(2)(a)(fairness, objectivity & impartiality in current affairs) refers to a debate on the Lisbon Treaty. Under the transitional provisions of the Broadcasting Act 2009, section 177(3) the Compliance Committee is obliged to complete investigations which were commenced but not completed by the Broadcasting Complaints Commission.

Mr. McLoughlin states the presenter, Karen Coleman, showed that she was pro-Lisbon. All her guests on this programme, except one, were pro-Lisbon. She allowed one of her guests say that C oir were liars in respect of their minimum wage posters without correcting him. Ms. Coleman had one guest on from C oir and she was aggressive with him. This guest asked Ms. Coleman if she had a hidden agenda. Mr. McLoughlin believes that the job of a good presenter is to act like a devil's advocate. Furthermore, he believes C oir is owed an apology and should be given a whole programme to get their views across.

### Station's Response:

Newstalk 106-108 states arising from the inadequate media coverage of the first Lisbon Treaty broadcasters were, rightly, criticised for their failure to inform the listening public of the merits and demerits of the Treaty. As a national broadcaster Newstalk has a duty to offer leadership and deliver the facts to the public.

As detailed in its guidelines on the Lisbon Treaty Referendum, the Broadcasting Commission of Ireland states that "*there is no requirement to allocate an absolute equality of airtime to opposing sides during the coverage of the Referendum*". At an Oireachtas hearing earlier this year, Newstalk contented that it is more appropriate to weight coverage of the Lisbon Referendum based on the current political party electoral system and that coverage should reflect the positions taken by those elected to D ail  ireann. The station submits that it decided not to follow the previously used '50-50 stopwatch' mechanism for both the Yes & No side as the station deemed it to be an inappropriate mechanism, misleading to the listener and providing platforms to certain unelected groups and therefore, unrepresentative of the voting public. Over the course of the entire Lisbon campaign, numerous members of the 'No' side featured across all



---

programmes. Elected members of both the Sinn Fein party and the Socialist Workers party appeared on the station frequently to put forward the case of the 'No' side.

**Decision of Compliance Committee:**

The Committee considered the broadcast and the written submissions of the complainant and the broadcaster. In assessing the complaint, the Committee had to have regard to section 24(2)(a) of the Broadcasting Act 2001 which states that every broadcaster shall ensure:

*'the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of his own views: Provided that should it prove impracticable in relation to a single broadcast to apply this paragraph, two or more related broadcasts may be considered as a whole, if the broadcasts are transmitted within a reasonable period of each other.'*

The Committee noted the submission of the broadcaster was general in nature and did not address the specific issues raised by the complainant in relation to the programme broadcast. The Committee would express its disappointment with this aspect of the broadcaster's submission.

The Committee would accept that a broadcaster has editorial independence and responsibility for its programme content and the interviewees/contributors it invites onto a programme. The Committee would also acknowledge that a regular feature of *The Wide Angle* programme is the 'Newspaper Review' and the programme makers have editorial independence as to what newspapers articles are chosen for review and discussion. Regular listeners to the programme would also be aware that the contributors taking part in the review, are asked to give their own opinions and views on particular newspaper stories. However, where the news story contains a matter of public interest and debate, the broadcaster is statutorily required to ensure fairness, balance and objectivity in its treatment of the matter. The broadcaster has editorial control over how this requirement is met for example, by a difference of views among the contributors, and/or by the presenter.

In this broadcast, the contributors invited to review the newspaper stories were: Sadhbh McCarthy, Director of the Centre for Irish and European Security, Pat Leahy, Political Editor of the Sunday Tribune and Dr. Frank Sullivan, Director of Radiation Oncology in Galway University Hospital



---

On hearing this part of the programme, the Committee noted that there were two newspapers articles regarding the Lisbon Treaty Referendum which were discussed by the panel of contributors. The first was an article in the *Irish Mail on Sunday* which posed the question *'Are we ready to give up certain things we hold dear in order to be part of this European Plan?'* The second article was contained in the *Sunday Tribune* entitled *'The C oir question: Who's lying to us?'* The complainant raises an issue with the second article. The article was written about the organisation C oir and referred to posters erected by it, making certain representations about the Treaty. It was evident as the discussion on the two articles progressed, that the contributors were pro-Lisbon and critical of the representations made by C oir, believing them to be incorrect, unsubstantiated and misleading. One of the contributors Pat Leahy observed that C oir's anti-Treaty position was a *'perfectly reasonable position to come from'*. However, he was critical of, and took issue with, what he perceived to be misinformation published by C oir about the Treaty, for example, its claims regarding the potential reduction of the minimum wage in this country to €1.84 if the Treaty was passed. He noted there were *'perfectly good reasons for not supporting the Lisbon Treaty without resorting to misinformation'* and expressed his view that this representation by C oir was deliberately misleading and a lie. Sadhbh McCarthy expressed her opinion that C oir tell *'down right lies'* and the media gave it coverage which its representation did not merit.

On hearing the discussion, the Committee was of the opinion that, in the absence of a representative from C oir taking part in the discussion, there was an onus on the presenter to explore or/and challenge the assertions/claims of the contributors in an impartial manner. The Committee was of the opinion that this was not done. At the end of the discussion, the presenter in response to a text from a listener which stated that *the Lisbon Treaty was the EU plan to enforce abortion in all countries*, agreed with the contributors that this statement was not true and noted that *'some people believe it is true and this is the spin C oir is giving it and people are believing it even though we know all the guarantees have been given'*. In this instance the Committee was of the view that this comment was inappropriate and may have been perceived as partial to the contributors' anti-C oir stance.

As the article related specifically to C oir and in the interest of fairness, objectivity and impartiality, the Committee was of the opinion that C oir should have been afforded a right to reply at the same time as the panel discussion was taking place to express its opinions and, specifically, to address the specific allegations/criticisms of the other contributors as and when they were made. However, the Committee noted that a C oir representative was not interviewed until an hour later in the programme. In the intervening period, the presenter had also interviewed former rugby player Denis Hickey who advocated a yes vote in the pending Referendum. The Committee also noted the presentation style. The Committee would acknowledge that some of the questions framed by the presenter in the course of this interview,



---

were based on issues being raised by those opposing the Treaty. However, Denis Hickey was permitted to respond and express his opinions to such questions without sufficient challenge.

On listening to the interview with Manus McMenamin, the representative from Cóir, the Committee noted that, while the presenter did address some of the issues raised by the contributors earlier in the programme, for example by inviting him to explain Cóir's representation on the minimum wage, the Committee found that he was not afforded ample opportunity to express opinions and/or respond to assertions and allegations, as may have been the case if he had been permitted to participate in the open discussion earlier in the programme. The Committee also noted the presentation style and was of the view that the presenter adopted a more challenging style of questioning and counterargument than had been the case with the other guests on the show. Further, the Committee noted that Mr. McMenamin was not given a chance to reply to the Chairperson of the Labour Court, Mr. Kevin Duffy's assertions, until Mr. Duffy had completed his contribution and was no longer on air.

The broadcasting legislation obliges a broadcaster to ensure that current affairs subject matter is treated fairly and in particular, matters which are the subject of current public debate. Therefore, it was incumbent on the broadcaster to ensure that in dealing with the Lisbon Treaty, a matter of current public debate, that both sides of the issue were addressed fairly. The broadcasting legislation also allows for fairness, objectivity and impartiality to be achieved in more than one broadcast. The Committee noted that the broadcaster submitted that '*over the course of the entire Lisbon campaign, numerous members of the 'No' side featured across all programmes*'. No further details/facts were submitted to support this argument. The Committee also noted that there was no reference in the broadcast by the presenter that indicated that there would be a further related discussion in a subsequent broadcast. No wider context was referred to by the presenter in the course of the programme and further, no wider context was sufficiently argued in the broadcaster's response. Therefore, the only broadcast relevant to the assessment of this complaint is the *Wide Angle* broadcast on 6 September 2009.

The Committee was of the view that the content of the discussion amounted to a one-sided viewpoint on the Lisbon Treaty Referendum and was not fair to all interests concerned. The complaint was upheld with regard to section 24(2)(a) fairness, objectivity and impartiality.

[Back to index](#)

**Complaint made by: Mr. Michael McNally**

**Ref. No. 561/09**

Station:

TV3

Teleshopping:

Play TV

Date:

1 November 2009



---

**Complaint Summary:**

Mr. McNally's complaint is submitted under the Broadcasting Act 2009, section 48(1)(d)(General Advertising Code: sections 3.1 protecting the individual and society; 3.1.3 inaccurate or misleading, 3.1.4 omission of relevant information, 3.3 transparency and 6.1 rules pertaining to teleshopping).

His complaint relates to a game that was to find the eyes that match the picture of Brad Pitt from 12 sets of eyes. Mr. McNally believes that the presenter misled the viewers by not stating that the answer referred to more than one pair of eyes, neither was there any text on the screen to explain this. The majority of the callers that rang referred to just one pair of eyes. In a previous game of matching eyes the answer revealed referred to one pair of eyes, therefore, Mr. McNally believes this game was misleading. The final answer revealed 5 pairs of eyes. The viewer never had a chance of guessing the correct answer when the rules were not explained together with the fact that they were changed from the first similar game.

**Station's Response:**

TV3 states that Mr. McNally correctly points out that the language used in relation to this game was "find the eyes" that matched the picture. At no stage was the expression "pair of eyes" used or any other such expression which indicated that there was not multiple answers. In this case several pairs of eyes were Brad Pitt's. In relation to the game and costs generally, Play TV clearly makes the cost of playing clear on screen and via the messages on the phone line. The answers are provided at the end of the show and further, are available on the website within 48 hours of any particular show ending. The game falls within the general category of brain teaser and does expect persons to think "outside the box".

**Decision of Compliance Committee:**

The Committee considered the broadcast and the written submissions of the complainant and the broadcaster. The complainant submits that the broadcast of *Play TV* on the 1 November 2009 was misleading, dishonest and unfair.

The content of the programme is classified as teleshopping. Accordingly, the Committee considered the complaint under the general principles and rules applying to teleshopping in the General Advertising Code, in particular, sections:

*6.1 The general principles and rules applying to all commercial communications and, where relevant, the general rules pertaining to advertising shall apply to teleshopping.*

*3.1 All commercial communications shall be prepared with a sense of responsibility both to the individual and to society and shall not prejudice the interests of either. All commercial communications shall be legal, honest, decent and truthful.*

*3.1.3 Commercial communications shall not contain inaccurate or misleading claims, statements, illustrations or representations, either direct or implied.*

*3.1.4 Commercial communications shall not omit relevant information in a manner that, in the result, is misleading or is likely to mislead. This means that all pertinent details of an offer shall be stated in a clear and understandable manner.*





---

*3.3 Commercial communications shall operate on the principle of transparency. Any commercial arrangement within programming shall be identifiable as such and the listener/viewer shall be made aware of such an arrangement.*

The Committee noted that the programme is an interactive quiz show in which callers use a premium rate telephone service to try and get connected to the studio to take part in a quiz.

The complainant raises an issue regarding the fairness of the solution to the quiz based on the manner in which the quiz was presented. The Committee would acknowledge that the methodologies used in quizzes/puzzles can vary in difficulty and/or obviousness. What is important to the Committee is that the methodology and level of difficulty of the puzzle/game are not misrepresented and the viewers misled. On viewing the broadcast, the Committee was of the view that the viewer was not fully informed of the nature of the rules of engagement of the quiz which required viewers to '*find the eyes*' belonging to the face of actor Brad Pitt. Viewers were presented with 12 numbered photos, each photo containing a pair of eyes. The correct answer, provided at the end of the programme, was a number of photos contained his eyes.

On viewing the broadcast, the Committee was of the view that the presenter made a number of misleading claims throughout the course of the quiz and the quiz was conducted unfairly. The presenter made repeated references to the similarity between the quiz and the preceding quiz which asked viewers to find the eyes that belonged to the face of the actress Angelina Jolie. Viewers were presented with 10 photos, each containing a pair of eyes and the correct answer, which was provided within a few minutes, was *one* photo. Accordingly, that particular quiz was a game of elimination.

During the course of the second quiz, each time a caller provided a number identifying one particular photo, the presenter claimed it was not the right *one*. A number of players chose a number which was included in the correct answer; however, the presenter informed them that their answer was incorrect. This information was not entirely accurate as the eyes chosen did in fact belong to Brad Pitt. The presenter also asked viewers to call in with a *number* she had not heard giving the impression that the numbers provided up until then were incorrect and it was simply a process of elimination. Further, the Committee was of the view that a number of claims made by the presenter gave the impression that the only difference between the two quizzes was the number of photos presented; 10 for Angelina and 12 for Brad Pitt.

The Committee found there was a lack of transparency about the rules of engagement, the presentation was misleading and the quiz was conducted unfairly. The broadcast was in breach of the sections 6.1, 3.1, 3.1.3, 3.1.4 and 3.3 of the General Advertising Code. Accordingly, The complaint was upheld.

[Back to index](#)

**Complaint made by: Mr. Martin Breen**

**Ref. No. 589/09**

Station: \_\_\_\_\_

Competition: \_\_\_\_\_

Date: \_\_\_\_\_

Newstalk 106-108 fm

Breakfast

23 November 2009

**Complaint Summary:**





---

Mr. Breen's complaint is submitted under the Broadcasting Act 2009, section 48 (b) (harm & offence, the Code of Programme Standards - sections 2.2 due care, 3.5.1 and 3.5.2 factual programming). The complainant states that at 8.30 a.m. during a discussion about the show the X Factor, it was reported that Susan Boyle had made an appearance on that show at the weekend. Newstalk presenter Claire Byrne declared that Susan Boyle was there because of a freak show; that she was a freak; that she was not right in the head and repeated that she was a freak. The complainant found these comments highly offensive and insulting and believes they have no place on radio let alone at a time when children might well be listening.

**Station's Response:**

Newstalk 106-108 fm states that Mr. Breen refers to an item on Newstalk's Breakfast Show in relation to singer Susan Boyle, a contestant from the ITV entertainment show 'Britain's Got Talent'. In the course of this item, Newstalk presenter Claire Byrne referred to the freakish nature of the 'Britain's Got Talent' show and how a complete unknown such as Susan Boyle has been propelled to worldwide fame as a result of her appearances on this talent show. That Susan Boyle was a 'freak' of the show. The use of 'freak' was used to describe the freakish nature of the talent show format. It was in no way related to the character of Susan Boyle.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns comments made by the female presenter concerning a British talent show winner, Susan Boyle. In assessing this complaint, the Committee had to have regard to 2.2 due care, 3.5.1 and 3.5.2 factual programming. The Committee noted that at approximately 8.30 a.m. the presenter of the following programme to the *Breakfast Show*, Mr. Tom Dunne, came on-air and asked the two morning show presenters if they had followed the X Factor at the weekend, in which Jedward were voted off. The singer Susan Boyle was a guest on the show. The two male presenters, Ivan Yates and Tom Dunne stated how good a singer they thought she was. The female presenter stated she didn't think she was a great singer and that she was a 'freak'. Her comments included:

*'She annoys me. I can't listen to her or watch her. She does my head in.'*

*'The whole thing, she's a freak show, she is a freak...'*

*'But she's not right in the head.'*

*'Her voice isn't brilliant, it's because she's a freak that she's up there.'*

Contrary to the response submitted by the broadcaster, on hearing the broadcast the Committee was of the view that the presenter's comments were directed at Susan Boyle and not the show, which she had won the previous year. The Committee was also of the view that the language and manner of presentation were not appropriate. The Committee noted that neither of the male presenters intervened to moderate the comments of Ms. Byrne. While the Committee would acknowledge that the comments were made in a discussion with the presenter Tom Dunne as a short promo for his programme, the discussion was during the *Breakfast* show, a news and current affairs broadcast. Ms. Byrne is one of two presenters that anchor this programme. When her comments were heard and in particular, in the context of the particular programme and her role, the Committee was of the view that the comments were likely to cause offence. The comments themselves were inherently offensive and further, were disrespectful and



---

not editorially justified. The complaint was upheld with regard to the Code of Programme Standards, sections 2.2 due care, 3.5.1 and 3.5.2 factual programming.

[Back to index](#)

**Complaint made by: Mr. Tom O'Grady**

**Ref. No. 611/09**

Station: \_\_\_\_\_

Advertisement: \_\_\_\_\_

Date: \_\_\_\_\_

RTÉ Radio 1

RIAI Advert

27 November 2009

### **Complaint Summary:**

Mr. O'Grady's complaint is submitted under the Broadcasting Act 2009, section 48(1)(d)(General Advertising Code; sections 3.1, 3.1.2, 3.1.3 and 3.1.4 protecting the individual and society). Mr. O'Grady states the advert concerns the registration of Architects with the RIAI and is misleading to the public. Mr. O'Grady operates an architectural services business and has done so successfully for the last 13 years and he is not registered with this body. Because of the content of the advert, the listener is led to believe that the only persons qualified to be engaged to provide architectural services are those who are registered with this exclusive body, the RIAI. Because of this advert, his business has suffered and he lost two clients directly as a result of its misleading content.

### **Advertiser's Response**

The advertiser states the new Register for Architects was launched in November of this year by the Royal Institute of the Architects of Ireland and the Department of the Environment.

Established under the Building Control Act 2007, the Register for Architects lists architects whose qualifications meet the standards set out in the Act. Since the commencement of the Act, only architects who are on the Register should use the title 'Architect'. The Act also provides that the RIAI is the official registration body and competent authority for architects in Ireland.

The purpose of the Register for Architects is to improve and protect the quality of service to consumers by ensuring that people admitted to the Register have met defined levels of qualification and competence. By establishing an internationally agreed and recognised professional standard against which all persons applying for registration will be measured, the public can now be assured that registered architects are fully qualified and trained professionals.

The Register, as of November 2009, lists over 2,700 architects. For people who are not fully qualified but who have substantial experience there is now an established framework, set up under the terms of the Building Control Act, to support them in becoming registered architects.

The RIAI do not deem the advertisement to be misleading. The advertisement does not directly communicate nor imply 'that the only persons qualified to be engaged to provide architectural services are those who are registered with ... RIAI'. Persons with substantial experience are required to become registered in order to use the title 'Architect'. The Act provides for a number of prescribed routes to become registered.



---

**Station's Response:**

RTÉ states that the advertisement advises listeners to go to the RIAI website to find a list of qualified architects and suggests that if a person is not on the RIAI list that person is not a qualified architect. The complaint is made by a group of people practising as architects but are not registered with the RIAI and are not on the RIAI list and, therefore, they believe that the advertisement is not *truthful*.

RTÉ understands from the RIAI that under the Building Control Act, 2007 a Register for Architects whose qualifications meet the standards set out in the Act could be established. This register was launched by the Minister for the Environment, John Gormley TD and the RIAI on 16 November 2009.

The purpose of the Register for Architects is to improve and protect the quality of service to consumers by ensuring that people admitted to the Register have met defined levels of qualification and competence. By establishing an internationally agreed and recognised professional standard against which all persons applying for registration will be measured, the public can now be assured that registered architects are fully qualified and trained professionals.

For people who are not fully qualified but who have substantial experience, there is now an established framework, set up under the terms of the Building Control Act, to support them in becoming registered architects.

The Register, as of November 2009, lists over 2,700 architects. During the initial stages of registration, there will be people not on the register who have qualifications listed in the Building Control Act, 2007 or who are in the process of completing submissions for evaluation. There will also be those who don't have listed qualifications but who are preparing for assessment under the Technical Assessment Process, which evaluates relevant experience in architecture and can lead to registration. In addition, there are those who are taking the Register Admission Examination.

RTÉ further understands that if a person who is providing architectural services is not on the Register, the public are advised to ask about relevant qualifications and any plans for registration. The RIAI can also provide advice. According to the RIAI it is important to understand that the registration system is about the legal protection of the title 'architect'. It does not, and is not intended, to limit those who provide architectural services to architects who are named in the Register.

On foot of the above advice from the RIAI, RTÉ believes that the advertisements referred to in these complaints are *truthful*. These advertisements were accepted by RTÉ's Copy Clearance Committee in good faith and RTÉ has no reason to believe that they contain any information that is not accurate.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant, the advertiser and the broadcaster. The complaint concerns the text of an advertisement for a service offered by the Royal Institute of the Architects of Ireland (RIAI). In assessing this complaint, the Committee had to have regard to the General Advertising Codes and in particular:



---

**3.1** All commercial communications shall be prepared with a sense of responsibility both to the individual and to society and shall not prejudice the interests of either. All commercial communications shall be legal, honest, decent and truthful.

**3.1.2** Commercial communications shall not contain any element of spoken or visual presentation which misleads or is likely to mislead, either directly or by implication, by act or omission, with regard to the merits of the product or service being promoted or its suitability for the purpose recommended.

**3.1.3** Commercial communications shall not contain inaccurate or misleading claims, statements, illustrations or representations, either direct or implied.

**3.1.4** Commercial communications shall not omit relevant information in a manner that, in the result, is misleading or is likely to mislead. This means that all pertinent details of an offer shall be stated in a clear and understandable manner.

The Committee noted the content of the advertising copy:

Male voice-over: *You wouldn't trust an unqualified surgeon to operate on you?*

[sound effects]: male voice; *Now where did I leave my watch?*

Male voice-over: *You wouldn't trust an unqualified dentist would you with your teeth?*

male voice: *Open wide*, [sound effects – pneumatic drill]

Male voice-over: *So why trust an unqualified architect?*

*The title Architect is now legally protected and only qualified Architects can register with the RIAI. So you can rest assured that your registered Architect has the qualifications and experience for your project. To see if your Architect is registered, visit [website].*

The Committee also noted that both the advertiser and the broadcaster believe the text to be truthful. The Committee would acknowledge that the text would appear to be factually accurate; this appears to be the case. However, the General Advertising Code also requires that commercial communications do not mislead by omission or implication. In the advertisers and broadcasters submissions, reference is made to a framework for people who are not fully qualified but who have substantial experience to become registered architects. The Committee also noted that the advertisement directs the listener to the RIAI website which includes the following statement:

*'The Register as of November 2009, lists over 2700 architects. During the initial Stages of the registration there will be people not on the register, who have qualifications listed in the Building Control Act 2007 or who are in the process of completing the documentation submission and evaluations for registration. There will also be those who don't have listed qualifications but who are preparing for assessment under the Technical Assessment Process, which evaluates relevant experience in architecture and can lead to registration. In addition there are three who are taking the Register Admission Examination.*

*If the person who is providing your architecture services is not on the Register, you should ask about relevant qualifications. The RIAI can also provide advice.*



---

*It is important to understand that the registration system is about the legal protection of the title 'architect'. It does not, and is not intended, to limit those who provide architectural services to those architects in the Register'.*

Therefore, one does not have to be on the register to provide architectural services. Further, it is evident that due to the process of registration, a number of people operating architectural services were precluded from being on the register when the advertisement was broadcast in November 2009; a registration process had to be initiated and completed with the RIAI. It was not necessarily that the architectural service did not have the required experience; they were simply precluded because of the process for registration.

On hearing the opening sequence of the advertisement, the Committee was of the view that a listener would have heard that 'unqualified' architects, like unqualified surgeons and dentists, are not to be trusted. To trust your architect, check the RIAI register. This gave the impression that an architectural service not so registered was not qualified, was not to be trusted. While there was a reference to the advertiser's website, where critical information regarding the register was detailed, having such web content did not sufficiently mitigate the misleading impact of the message in the advertisement.

Given the tenor and language of the opening lines in the advertisement coupled with the claims of qualification in the closing text, the advertisement was likely to mislead listeners. The complaint is upheld with regard to the General Advertising Codes, sections 3.1, 3.1.2, 3.1.3 and 3.1.4.

[Back to index](#)

**Complaint made by: Mr. Brian J. More**

**Ref. No. 623/09**

Station:

Teleshopping:

Date:

TV3

Play TV

30 November 2009

#### **Complaint Summary:**

Mr. More's complaint is submitted under the Broadcasting Act 2009, section 48(1)(d)(General Advertising Code: sections 3.1 protecting the individual and society; 3.1.3 inaccurate or misleading, 3.1.4 omission of relevant information, 3.3 transparency and 6.1 rules pertaining to teleshopping). Mr. More states the puzzle on *Play TV* was of the type: 'Move two matches to make the highest number'. The initial match layout depicted the number 8778. The winning answer, the answer in the envelope, was 97791. Before this answer was given a caller had offered a much larger answer. The caller was not given a chance to explain his answer. The only dialogue was the presenter laughing and saying "that's a very large number".

Based on *Play TV*/*TV3* numerical methods there were umpteen higher numbers possible but the first (higher than envelope) number given was treated as a joke.

#### **Station's Response:**



---

TV3 states there were a lot of numbers which could be derived using the numbers presented on screen. TV3 confirm that the numbers mentioned by callers in the show that were higher than the number given were six billion and 179779. Neither of these numbers is possible.

It should be noted that we have checked that the use of Roman numerals, turning the picture, the use of “to the power of” numbers does not give a response of the order of magnitude required.

**Decision of Compliance Committee:**

The Committee has considered the broadcast and the written submissions of the complainant and the broadcaster.

The content of the programme is classified as teleshopping. Accordingly, the Committee considered the complaint under the general principles and rules applying to teleshopping in the BAI General Advertising Code, in particular, sections:

*6.1 The general principles and rules applying to all commercial communications and, where relevant, the general rules pertaining to advertising shall apply to teleshopping.*

*3.1 All commercial communications shall be prepared with a sense of responsibility both to the individual and to society and shall not prejudice the interests of either. All commercial communications shall be legal, honest, decent and truthful.*

*3.1.3 Commercial communications shall not contain inaccurate or misleading claims, statements, illustrations or representations, either direct or implied.*

*3.1.4 Commercial communications shall not omit relevant information in a manner that, in the result, is misleading or is likely to mislead. This means that all pertinent details of an offer shall be stated in a clear and understandable manner.*

The Committee noted that the programme is an interactive quiz show in which callers use a premium rate telephone service to try and get connected to a studio to take part in a quiz. The Committee noted that the game involved a puzzle based on matchsticks forming the number 8778. Viewers were asked to create the highest possible number by moving two matchsticks. The complainant raises an issue with the reasonableness of the solution provided where there were numerous solutions possible. He also relates his complaint to a former response of the broadcaster in relation to puzzles of this type. In its submission to this complaint, the broadcaster states that this response still stands.

The broadcaster previously stated that *if anyone gives an answer to the presenter live during the show which is higher than the one displayed in the envelope, following the rules of the game, the answer given by the caller is correct, is awarded the prize.* The Committee noted that this broadcast did not give any indication of this rule of engagement or how it would, given the format of the show, be implemented. In this broadcast, the presenter made it clear that she required the highest number possible which was contained in her ‘solution’ envelope. Where callers to the studio provided alternative answers, she informed them that the answers were incorrect and that was the end of the telephone conversation and connection. A broadcaster must ensure that all pertinent details of an offer shall be stated in a clear and understandable manner. At no stage in the show were viewers made aware that the prize would be awarded to any



---

contestant who matched or superseded the solution which was displayed at the end of the game, through a legitimate mathematical calculation.

In addition, the terms and conditions on the *Play TV* website do not provide for such an option. In this broadcast, a higher answer six trillion was provided, however, the presenter stated that this was incorrect and requested that other caller refrain from calling in with such huge numbers. On watching the broadcast, the Committee noted that a picture of Homer Simpson was attached to the puzzle. In previous broadcasts, pictures attached to puzzles have formed part of the puzzle itself, often contained roman or Arabic numerals. It was not unreasonable, therefore, for callers to use shapes from the picture to form roman or Arabic numerals and arrive at very high numbers. In its submission to the complaint, the broadcaster stated that the higher numbers provided by callers were not possible. However, the Committee was of the opinion that, by not asking the callers to explain how they arrived at such numbers, other viewers could not have been aware that another answer other than the one in the 'solution' envelope would be permissible. Accordingly, the Committee found there was a lack of transparency about the rules of engagement.

The Committee found that the broadcast was in breach of sections 6.1, 3.1, 3.1.3, 3.1.4 and 3.3 of the General Advertising Code and the complaint was upheld.

[Back to index](#)

**Complaint made by: Mr. Brian Montaut on behalf of Architects' Alliance Ref. No. 627/09**

Station:

RTÉ Radio 1

Advertisement:

RIAI Advert

Date:

17 November 2009

### **Complaint Summary:**

Mr. Montaut's complaint, on behalf of Architects' Alliance, is submitted under the Broadcasting Act 2009, section 48(1)(d)(General Advertising Code; sections 3.1, 3.1.2, 3.1.3 and 3.1.4 protecting the individual and society). The Architects' Alliance group states in this advertisement a direct link is made in the adverts between being qualified and being named on the register of architects. They state this is wholly untrue. Unlike say, gas fitters, there is no obligation to be registered in order to continue to work as an architect. The Building control Act, 2007, which created the register, gives 'protection' to the title 'architect' without constraining 'function'. The Minister has repeated this essential, Constitutional fact in his recent Parliamentary answers: "Architects may still continue to practice but will be unable to use the title". One must be qualified in a newly specified fashion in order to be named on the register and thus be permitted to use the newly protected title, but that does not make it truthful to imply that those who are not named on the register are unqualified as architects.

According to RIAI Ltd's own figures, there are about 1,000 candidates for registration. These are people who feel they already meet the new standards specified as being necessary for registration purposes and who will avail of the procedures provided for their registration. In other words, there are presently qualified architects who must make a formal application before being accepted onto the register. The first of these applications is expected to be ready for assessment in about six month's time. (RIAI Ltd. recommends at least four months for portfolio preparation). Thus many eligible architects have no chance of appearing on the register





---

until the middle of 2010. The advert fails to make this important fact known (which is especially disturbing as RIAI Ltd. insists on calling it a "public notice" rather than an advertisement). Anyone not already on the register is branded unqualified.

According to the "public notice", the register is your only man for locating a qualified and, therefore, safe architect. Immediately upon the launch of registration (16 Nov 09), 2,700 names appeared on the newly created register. This constitutes the entire membership of RIAI Ltd. itself and no-one else. That fact was concealed. The register was presented as the all-encompassing home of all truly qualified architects.

**Advertiser's Response:**

The advertiser states the new Register for Architects was launched in November of this year by the Royal Institute of the Architects of Ireland and the Department of the Environment.

Established under the Building Control Act 2007, the Register for Architects lists architects whose qualifications meet the standards set out in the Act. Since the commencement of the Act, only architects who are on the Register should use the title 'Architect'. The Act also provides that the RIAI is the official registration body and competent authority for architects in Ireland.

The purpose of the Register for Architects is to improve and protect the quality of service to consumers by ensuring that people admitted to the Register have met defined levels of qualification and competence. By establishing an internationally agreed and recognised professional standard against which all persons applying for registration will be measured, the public can now be assured that registered architects are fully qualified and trained professionals.

The Register, as of November 2009, lists over 2,700 architects. For people who are not fully qualified but who have substantial experience there is now an established framework, set up under the terms of the Building Control Act, to support them in becoming registered architects.

The RIAI states it is entirely appropriate for the advertisement to make comparisons between the work of a doctor and dentist with the work of an architect as all three professions have a legislative duty of care to the public. These professionals are regulated by legislation. In addition, architects are one of only seven professionals with automatic recognition rights under the EU Professional Qualifications Directive (PQD). The advertisement raises people's awareness that the title architect is now legally protected and only qualified architects can register with the RIAI and describe themselves as an "architect". The advertisement encourages people to check if their architect is registered by visiting the RIAI's website [www.riai.ie](http://www.riai.ie). When the general public visit the Register for Architects on the RIAI's website, the following advice is clearly provided:

*During the initial stages of registration there will be people not on the register who have qualifications listed in the Building Control Act 2007 or who are in the process of completing submissions for evaluation. There will also be those who don't have listed qualifications but who are preparing for assessment under the Technical Assessment Process, which evaluates relevant experience in*



---

*architecture and can lead to registration. In addition there are those who are taking the Register Admission Examination.*

*If the person who is providing your architectural services is not on the Register, you should ask about relevant qualifications and their plans for registration. The RIAI can also provide advice.*

*It is important to understand that the registration system is about the legal protection of the title 'architect'. It does not, and is not intended, to limit those who provide architectural services to architects who are named in the Register.*

With regard to the third issue, the RIAI would like to confirm that when the Register for Architects was launched in November 2009, only those RIAI members who met the criteria set out in Section 14(2)(b) of the Building Control Act 2007, were listed as registered architects on the Register for Architects.

**Station's Response:**

RTÉ states that the advertisement advises listeners to go to the RIAI website to find a list of qualified architects and suggests that if a person is not on the RIAI list that person is not a qualified architect. The complaint is made by a group of people practising as architects but are not registered with the RIAI and are not on the RIAI list and, therefore, they believe that the advertisement is not *truthful*.

RTÉ understands from the RIAI that under the Building Control Act, 2007 a Register for Architects whose qualifications meet the standards set out in the Act could be established. This register was launched by the Minister for the Environment, John Gormley TD and the RIAI on 16 November 2009.

The purpose of the Register for Architects is to improve and protect the quality of service to consumers by ensuring that people admitted to the Register have met defined levels of qualification and competence. By establishing an internationally agreed and recognised professional standard against which all persons applying for registration will be measured, the public can now be assured that registered architects are fully qualified and trained professionals.

For people who are not fully qualified but who have substantial experience, there is now an established framework, set up under the terms of the Building Control Act, to support them in becoming registered architects.

The Register, as of November 2009, lists over 2,700 architects. During the initial stages of registration, there will be people not on the register who have qualifications listed in the Building Control Act, 2007 or who are in the process of completing submissions for evaluation. There will also be those who don't have listed qualifications but who are preparing for assessment under the Technical Assessment Process, which evaluates relevant experience in architecture and can lead to registration. In addition, there are those who are taking the Register Admission Examination.

RTÉ further understands that if a person who is providing architectural services is not on the Register, the public are advised to ask about relevant qualifications and any plans for registration. The RIAI can also



---

provide advice. According to the RIAI it is important to understand that the registration system is about the legal protection of the title 'architect'. It does not, and is not intended, to limit those who provide architectural services to architects who are named in the Register.

On foot of the above advice from the RIAI, RTÉ believes that the advertisements referred to in these complaints are *truthful*. These advertisements were accepted by RTÉ's Copy Clearance Committee in good faith and RTÉ has no reason to believe that they contain any information that is not accurate.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant, the advertiser and the broadcaster. The complaint concerns the text of an advertisement for a service offered by the Royal Institute of the Architects of Ireland (RIAI). In assessing this complaint, the Committee had to have regard to the General Advertising Codes and in particular:

**3.1** All commercial communications shall be prepared with a sense of responsibility both to the individual and to society and shall not prejudice the interests of either. All commercial communications shall be legal, honest, decent and truthful.

**3.1.2** Commercial communications shall not contain any element of spoken or visual presentation which misleads or is likely to mislead, either directly or by implication, by act or omission, with regard to the merits of the product or service being promoted or its suitability for the purpose recommended.

**3.1.3** Commercial communications shall not contain inaccurate or misleading claims, statements, illustrations or representations, either direct or implied.

**3.1.4** Commercial communications shall not omit relevant information in a manner that, in the result, is misleading or is likely to mislead. This means that all pertinent details of an offer shall be stated in a clear and understandable manner.

The Committee noted the content of the advertising copy:

Male voice-over: *You wouldn't trust an unqualified surgeon to operate on you?*

[sound effects]: male voice; *Now where did I leave my watch?*

Male voice-over: *You wouldn't trust an unqualified dentist would you with your teeth?*

male voice: *Open wide*, [sound effects – pneumatic drill]

Male voice-over: *So why trust an unqualified architect?*

*The title Architect is now legally protected and only qualified Architects can register with the RIAI. So you can rest assured that your registered Architect has the qualifications and experience for your project. To see if your Architect is registered, visit [website].*

The Committee also noted that both the advertiser and the broadcaster believe the text to be truthful. The Committee would acknowledge that this appears to be the case. However, the General Advertising Code also requires that commercial communications do not mislead by omission or implication. In the advertisers and broadcasters submissions, reference is made to a framework for people who are not fully



---

qualified but who have substantial experience to become registered architects. The Committee also noted that the advertisement directs the listener to the RIAI website which includes the following statement:

*'The Register as of November 2009, lists over 2700 architects. During the initial Stages of the registration there will be people not on the register, who have qualifications listed in the Building Control Act 2007 or who are in the process of completing the documentation submission and evaluations for registration. There will also be those who don't have listed qualifications but who are preparing for assessment under the Technical Assessment Process, which evaluates relevant experience in architecture and can lead to registration. In addition there are three who are taking the Register Admission Examination.*

*If the person who is providing your architecture services is not on the Register, you should ask about relevant qualifications. The RIAI can also provide advice.*

*It is important to understand that the registration system is about the legal protection of the title 'architect'. It does not, and is not intended, to limit those who provide architectural services to those architects in the Register'.*

Therefore, one does not have to be on the register to provide architectural services. Further, it is evident that due to the process of registration, a number of people operating architectural services were precluded from being on the register when the advertisement was broadcast in November 2009; a registration process had to be initiated and completed with the RIAI. It was not necessarily that the architectural service did not have the required experience; they were simply precluded because of the process for registration.

On hearing the opening sequence of the advertisement, the Committee was of the view that a listener would have heard that 'unqualified' architects, like unqualified surgeons and dentists, are not to be trusted. To trust your architect, check the RIAI register. While there was a reference to the advertiser's website, where critical information regarding the register was detailed, having such web content did not sufficiently mitigate the misleading impact of the message in the advertisement.

Given the tenor and language of the opening lines in the advertisement coupled with the claims of qualification in the closing text, the advertisement was likely to mislead listeners. The complaint is upheld with regard to the General Advertising Codes, sections 3.1, 3.1.2, 3.1.3 and 3.1.4.

[Back to index](#)

**Complaint made by: Ms. Carol-Ann Reynolds**

**Ref. No. 634/09**

Station:

TV3

Teleshopping:

Play TV

Date:

10 December 2009

**Complaint Summary:**



---

Ms. Reynolds' complaint is submitted under the Broadcasting Act 2009, section 48(1)(d)(General Advertising Code: sections 3.1 protecting the individual and society; 3.1.3 inaccurate or misleading, 3.1.4 omission of relevant information, 3.3 transparency and 6.1 rules pertaining to teleshopping). Ms. Reynolds states that after watching the show for 25 minutes she decided to call in, despite her reservations about calling premium numbers. As she watched the show the presenter seemed agitated that no one had the answer to the quiz. The presenter repeatedly kept saying no one was calling in and that there had to be a teacher or math genius out there who could solve the puzzle. Ms. Reynolds states as she knew the answer was  $7-3=4$  she called the number on screen. She got through immediately and was thrilled. She was asked to answer a qualifying question by choosing A or B which she did then it said she wasn't lucky this time and to try again.

Ms. Reynolds states she was so dumbfounded that she had the solution and she was not put through. She kept calling the number and failed to be put through, despite the presenter pleading with viewers to call in and saying there were no calls the studio. The presenter seemed distressed that no one had the solution and, in fact, Ms. Reynolds thought she was very unprofessional for a TV show.

Ms. Reynolds watched her plead for calls with the solution for 25 minutes which Ms. Reynolds timed because she kept waiting for bell to ring and for her to go on to another puzzle. Ms. Reynolds last call was at 1.17 am. The complainant made a total of five calls to this show as she was not going to let it get the better of her, which it did and she gave up. In her opinion this show is fraudulent and should be axed as vulnerable people are going to end up running up large phone bills. There does not seem to be a way to win on this show.

**Station's Response:**

TV3 states it is made clear in the Terms and Conditions that are displayed on the screen, and referred to by the Presenter on a regular basis, that a number of calls may be needed to get through to the studio. Therefore, knowing the answer does not mean that you will automatically get through to the show. Given the national distribution of TV3, it is only reasonable to expect that there can be a large number of callers to the show on any particular evening. TV3 notes that Ms. Reynolds did not like the presentation style of the Presenter in question. This is primarily a personal preference rather than a specific breach of any particular broadcasting code.

In respect of Ms. Reynolds comments that the show is fraudulent, this is a very serious allegation and it is one that TV3 refutes categorically. The Terms and Conditions of the service are made available both on a website [www.playtvireland.com](http://www.playtvireland.com) and also the main Terms and Conditions are referred to repeatedly during the course of the programme. In respect of "vulnerable people going to end up running large phone bills", it should be noted that there are limits imposed by TV3 both on a nightly and on a monthly basis. Further, it should be noted that there has been over 1,000 winners to-date since the inception of the service in late May 2009 and a significant six figure sum in prize money has been given away since then.

In the context of Ms. Reynolds' reference to vulnerable people, it is entirely up to an individual whether they wish to participate or not.

**Decision of Compliance Committee:**



---

The Committee considered the broadcast and the written submissions of the complainant and the broadcaster.

The content of the programme is classified as teleshopping. Accordingly, the Committee considered the complaint under the general principles and rules applying to teleshopping in the General Advertising Code, in particular, sections:

*6.1 The general principles and rules applying to all commercial communications and, where relevant, the general rules pertaining to advertising shall apply to teleshopping.*

*3.1 All commercial communications shall be prepared with a sense of responsibility both to the individual and to society and shall not prejudice the interests of either. All commercial communications shall be legal, honest, decent and truthful.*

*3.1.3 Commercial communications shall not contain inaccurate or misleading claims, statements, illustrations or representations, either direct or implied.*

*3.1.4 Commercial communications shall not omit relevant information in a manner that, in the result, is misleading or is likely to mislead. This means that all pertinent details of an offer shall be stated in a clear and understandable manner.*

*3.3 Commercial communications shall operate on the principle of transparency. Any commercial arrangement within programming shall be identifiable as such and the listener/viewer shall be made aware of such an arrangement.*

The Committee noted that the programme is an interactive quiz show in which callers use a premium rate telephone service to try and get connected to a studio to take part in a quiz.

The complainant raised an issue regarding access to the studio. On viewing the broadcast, the Committee noted that the viewer is not fully informed of the nature of the rules of engagement. The Committee would acknowledge that the presenter informed viewers at the outset of the programme that not all calls get connected to the studio. The scrolling ticker on screen also stated that calls are not guaranteed to get through to the studio. The broadcaster submits that it would not be reasonable to expect that to simply know the correct answer and ring in with it that you win the prize. The Committee would agree with this submission. The Committee would also acknowledge that there are terms and conditions of participation available on the website address displayed on-screen. However, while the viewer is informed that not all calls get through to studio, the viewer is not informed or given any indication of what the chances are of getting through. A broadcaster must ensure that a viewer is informed of all the pertinent details of an offer. In the case of this broadcast, the viewer was encouraged to call but was not fully informed that it was a game of chance and of the random nature of the open-line. Further, it would not have been possible for a viewer to determine what the random selection process entailed when watching the programme. In the opinion of the Committee, there was a lack of transparency about the chances of connection to the studio and participation in the show.

The Committee noted, in this particular broadcast, viewers were asked to move one matchstick to make an equation, presented on screen, correct. There were two possible answers, one of which was provided by a caller at 34 minutes into the programme who won €50. However, the Committee noted that, thereafter, no



---

calls were connected to the studio for a period of 43 minutes. On watching the broadcast, the Committee was of the opinion that the solutions were relatively easy and this was also stated by the presenter. Accordingly, it did not consider it reasonable to accept that no viewer used the premium rate line during that protracted period. However, this was the impression given by the presenter during that period. The Committee found the format of the programme to be unfair and misleading in this regard. The Committee also noted that the broadcaster did not sufficiently address this issue in its submission to the complaint.

With regard to the availability of the terms and conditions on the *Play TV* website, the Committee noted that when you enter the site the welcome page includes, '*if you think you can solve the quiz, all you need to do is dial [number]*'. This is not accurate. A random selection by the premium rate service determines whether a caller participates and gets a chance to answer. Calling the number does not guarantee entry to the competition. On the webpage containing the full terms and conditions, it is stated that '*when you call you are not guaranteed that you will get through to the studio*' and '*the participant who is connected to our studio and gives a correct answer to the question on air wins a prize. Participants are randomly selected from the callers who answer the single yes/no entry correctly over the phone...*'. The Committee noted the reference to '*random*'. However, this single reference does not sufficiently inform the viewer of the rules of engagement or the chances of participation. Therefore, the format of the programme was unfair and misleading.

The Committee found the broadcast was in breach of sections 6.1, 3.1.3, 3.1.4 and 3.3 of the General Advertising Code and the complaint was upheld.

[Back to index](#)

## Resolved/Rejected/Invalid Complaints

**Complaint made by: Ms. Ann Cleere**

**Ref. No. 453/09**

Station:

Newstalk 106-108FM

Programme:

Tom Dunne Show

Date:

4 September 2009

### Complaint Summary:

Ms. Cleere's complaint is submitted under the Broadcasting Act 2001, section 24(2)(d)(Code of Programme Standards: sections 2.2 due care and 3.3.1 coarse and offensive language). Under the transitional provisions of the Broadcasting Act 2009, section 177(3) the Compliance Committee is obliged to complete investigations which were commenced but not completed by the Broadcasting Complaints Commission.

Ms. Cleere states she found the interview between Tom Dunne and his guest full of double meaning innuendos of a sexual nature. She personally found the language offensive and quite vulgar and she became distressed by it. The discussion was initially about the 'Electric Picnic' Music Festival which was taking place in Stradbally, County Laois but then the whole item took on overtones of sexual connotations which she found inappropriate, unnecessary and quite shocking.





---

### **Station's Response:**

Newstalk 106-108 states the piece in question involved a researcher on the show demonstrating, live on air, how easy his tent was to put up. The researcher, John Fardy, was going to the Electric Picnic later that day and had been talking about how easy his tent was to erect. He said it could be done with one movement, without any need for pegs or guide wires. It was felt that this would be an entertaining piece on the show, as a webcam could be set up and people could judge for themselves if the tent was as great, as Mr. Fardy claimed.

The piece was carried out in a very light-hearted spirit with Mr. Fardy describing what he was doing, as he was doing it. Tom Dunne commentated throughout on how easy it all looked. There was never any intention to imply anything of an adult nature or make any sexual innuendo and the language used was all in keeping with what you would expect in an interview about erecting a tent. There was no foul or vulgar language used whatsoever and the general reaction from listeners to the show was that the piece was very entertaining.

### **Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The Committee noted the complaint concerned a conversation on *The Tom Dunne* show between the presenter Tom Dunne and one of the programme's researchers John Fardy. John Fardy, who was live on air, was explaining to Tom how easy it was to erect a particular type of tent. The context for this demonstration, as explained to listeners, was the Electric Picnic Music Festival taking place later that day. On hearing the broadcast, the Committee noted that some of the comments of the presenter and researcher relied on sexual innuendo for humour and could not, therefore, agree with the broadcaster's submission that there was no intention to imply anything of an adult nature or to make any sexual innuendo.

Under the Code of Programme Standards, the Committee must consider if the use of such innuendo could reasonably be expected to cause undue offence and this includes considering the context in which it was used, the type of programme, time of broadcast, presentation style and audience expectation. The Committee would accept that the programme is aimed at an adult audience and the regular listener would be aware of the type of banter between, and sense of humour of, the presenter and researcher. The Committee was satisfied that the innuendo was intended to be humorous and light-hearted and unlikely to cause widespread offence to its regular adult audience. The Committee noted that, at no stage, was the language itself coarse or offensive.

The complaint was, accordingly, rejected with regard to section 2.2 and section 3.3.1 of the Code of Programme Standards.

[Back to index](#)

**Complaint made by: Mr. Paul O'Toole**

**Ref. No. 500/09**

Station: \_\_\_\_\_

Advertisement: \_\_\_\_\_

Date: \_\_\_\_\_



**Complaint Summary:**

Mr. O'Toole's complaint, submitted under the Broadcasting Act 2001, section 24(2)(e)(General Advertising Codes: section 3.2.1. offence, harm and human dignity) refers to an advertisement for the use of radio as an advertising media. Under the transitional provisions of the Broadcasting Act 2009, section 177(3) the Compliance Committee is obliged to complete investigations which were commenced but not completed by the Broadcasting Complaints Commission.

The complainant states that the advert suggests that radio is the best way to advertise and goes on to describe a particularly unsavoury 300lb male, allergic to clothing with some ugly birthmarks and one evil arched eyebrow. Mr. O'Toole's complaint refers in particular to the line "did I tell you I am half Samoan and half Tongalese...". He believes this reference is directly demeaning to any person from either region.

**Advertiser's Response:**

Cawley Nea states that radio as a media has never been showcased as a visual medium, for obvious reasons, and the idea was to do just that by painting a picture in listeners' minds of a really distinctive person to emphasise the visual nature of radio. The tongue-in-cheek description of a giant person, a half Samoan with a ginger moustache and a really unusual birthmark, was pretty distinctive. Cawley Nea believes this made their case well. At no stage did Cawley Nea describe or infer that any of the characteristics of this particular unusual individual were ugly and certainly not stereotypical. If anything, Cawley Nea set out to describe the opposite to what most people would consider a stereotype. Cawley Nea emphasise their apologies for any offence caused and states that this was never their intention.

**Station's Response:**

Newstalk 106-108FM states that the purpose of this advertisement was to highlight the benefits of radio advertising and illustrate how such advertising can use "theatre of the mind" to conjure up strong images in listeners minds with the aid of a good advert script. The purpose of the advertisement was to highlight how images can be used in radio advertisements and the possibilities of the images are limitless.

This advertisement was put together by the Independent Broadcasters of Ireland in conjunction with RTÉ and it was never the intention to offend any individual from Samoa or Tonga. These two countries were merely selected to highlight that any image is possible in the listeners mind.

Newstalk screened this advert before it was aired and were of the belief that it was not offensive but an attempt by the industry to highlight the benefit of radio advertising to drive business in this tough economic time.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant, the advertiser and the broadcaster. The complaint concerns particular references to nationalities referred to in the advertisement in question. In assessing the complaint, the Committee had to consider such references in



---

the context of the entire advertising copy. The Committee also had to have regard to the General Advertising Code and in particular, section 3.2.1 which states:

*Commercial communications shall not support or condone discrimination against any person or section of the community, in particular on the basis of age, gender, marital status, membership of the Traveller Community, family status, sexual orientation, disability, race or religion.*

On hearing the advertisement, the Committee found that the content was intended to paint a distinctive and visual image for the listener, in order to highlight the ability to paint such pictures through the format of speech. It was evident that the content was based on exaggeration in order to create strong visual imagery. The Committee could not discern any content which could be considered derogatory or offensive to a particular race or races.

Furthermore, the Committee was of the view that it would not be reasonable to infer that the content supported or condoned discrimination on grounds of race as submitted by the complainant. The complaint was rejected with regard to the General Advertising Code and in particular, section 3.2.1 offence, harm and human dignity.

[Back to index](#)

**Complaint made by: Mr. Michael Foley**

**Ref. No. 508/09**

Station:

Programme:

Date:

Radio Kerry

'Call from the Dáil'

25 September 2009

### **Complaint Summary:**

Mr. Foley's complaint is submitted under the Broadcasting Act 2001, section 24(2)(a)(fairness, objectivity & impartiality in current affairs). Under the transitional provisions of the Broadcasting Act 2009, section 177(3) the Compliance Committee is obliged to complete investigations which were commenced but not completed by the Broadcasting Complaints Commission.

The complainant states that the discussion on Public Affairs between the presenter, Deirdre Walshe and Michael O'Regan of the Irish Times was totally unbalanced. Both Ms. Walshe and Mr. O'Regan's criticism of the Government, especially Tánaiste Mary Coughlan and An Taoiseach Brian Cowan, was totally destructive, culminating in Deirdre Walshe describing her overhearing a protestor calling An Taoiseach a 'dope'. The programme was unfair, unbalanced and more of a 'rant' and an incitement than anything else.

### **Station's Response:**

Radio Kerry states the programme '*Call from the Dáil*' is a weekly review of that week's major events in the Oireachtas. It has been running on Radio Kerry for 15 years. Michael O'Regan, parliamentary correspondent for the Irish Times, does not generate stories but he simply reflects on the events of the week as they occurred in the Dáil and the Seanad.



---

That particular week was not a good one for the Government. Details of Rody Molloy's 1 million euro retirement package emerged as well as revelations that the former FÁS Director General had threatened legal action in securing his pension. It was the main political talking point of the period - Michael O'Regan could not disregard it. Likewise, he could not ignore the performance of Tánaiste Mary Coughlan - who was acting Taoiseach that particular week. As Minister for Enterprise, Trade and Employment, FÁS lies within her remit.

Michael O'Regan made a number of critical comments about the Government - based on the events of that week and all his criticisms were fair comment. Radio Kerry rejects the allegation that the programme was "totally unbalanced" against Fianna Fáil and the Government in general. Michael O'Regan paid tribute to former Taoiseach Albert Reynolds's role in the peace process and Deirdre Walsh made the point that Fianna Fáil had helped bring peace to Northern Ireland and had brought unparalleled prosperity to Ireland. She also put forward the viewpoint that support for the second Lisbon Treaty was based on the "*Government's ability to turn things around*".

Deirdre referenced the protest against An Taoiseach at the Ploughing Championship. But it's quite clear if one hears this part of the programme, that neither she nor Michael O'Regan condoned the heckling to which An Taoiseach was subjected. In fact, Deirdre described the jostling as "scary".

She merely reported what took place - that one protestor called An Taoiseach a 'dope.' Furthermore, after 10am, Deirdre read a number of comments from listeners expressing their support for An Taoiseach and Fianna Fáil.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns a discussion in a weekly slot in the schedule of Radio Kerry, the *Call from the Dáil*. In assessing the complaint, the Committee had regard to the requirements of fairness, objectivity and impartiality in current affairs.

The Committee noted the audio introduction to the discussion; '*Michael O'Regan's Call from the Dáil*'. The presenter then informed the listener that the slot was beginning a little earlier than usual due to the number of events that occurred that week. Her opening line to Mr. O'Regan included:

*'very busy on the corridors of power this week'.*

Mr. O'Regan's response included:

*'very busy Deirdre. When you think about NAMA, when you think about Lisbon, the budget in December, the chaos within the Cabinet on the McCarthy Report and FÁS...'*

Therefore, listeners were informed from the start of the discussion that Mr. O'Regan would give his analysis on the Dáil proceedings that week. The first issue discussed was FÁS and the controversy surrounding the severance package received by a former Director, Mr. Rody Molloy. The Committee



---

noted that it was in this context that the Taoiseach and the Tánaiste were referred to. Further, the Tánaiste was also the acting An Taoiseach in the absence of An Taoiseach Brian Cowen in the Dáil that week.

On hearing the discussion, the Committee found that it was a strong, robust discussion based on factual events; the context was the Dáil proceedings that week. Further, it was an analytical piece by a well-known political commentator. Regular listeners would also be familiar with the slot and would know the analysis is that of Mr. O'Regan's. The Committee would acknowledge that the presenter could have, on occasion, posed a stronger challenge. However, given the context and well know format of the broadcast item, on balance, it would not be reasonable to determine that the subject matter was treated unfairly. The Committee was of the view that the content of the entire discussion was in the main fair and legitimate comment.

Furthermore, the Committee also noted that achievements of the Government were referred to such as the peace process in Northern Ireland, the economic boom and the turn around in the Lisbon Treaty vote. With regard to the reference of 'dope', the Committee noted that this was a reported event. The presenter informed the listeners of the context; a television report had shown An Taoiseach being challenged by individuals while attending the Ploughing Championships and the report included the sound byte of an individual calling An Taoiseach 'a dope'. Therefore, the presenter was not reporting what she had overheard as submitted by the complainant, but an actual occurrence reported on in the media at the time. The Committee also noted that later in the broadcast the presenter read out a comment from a listener who said he had been at the Ploughing Championships and it was just a small group of individuals who had confronted An Taoiseach.

On hearing the entire discussion and having regard to the context and format of the discussion, the Committee was of the view that it was a robust and fair discussion on the factual events of the Dáil proceedings that week. The complaint was rejected with regard to the legislative provision of fairness, objectivity and impartiality in current affairs.

[Back to index](#)

**Complaint made by: Mr. Eamon O'Brien**

**Ref. No. 509/09**

Station:

RTÉ 2

Programme:

If Lynch Had Invaded

Date:

3 September 2009

**Complaint Summary:**

Mr. O'Brien's complaint is submitted under the Broadcasting Act 2001, section 24(2)(a)(fairness, objectivity & impartiality in current affairs). Under the transitional provisions of the Broadcasting Act 2009, section 177(3) the Compliance Committee is obliged to complete investigations which were commenced but not completed by the Broadcasting Complaints Commission.

The complainant states that the following claims were made within the programme about its content:



- 
1. This programme was designated by the broadcaster as an *'RTÉ Factual'* programme and also as *'a made for RTÉ'* programme'.
  2. Opening text to the programme stated that: *'This documentary includes reconstructions based on actual events'*.
  3. Opening text to the programme also stated that: *'It also features dramatised sequences that have used factual sources to illustrate one version of what may have happened had an invasion of Northern Ireland taken place.'*

Based on these assertions the viewer was entitled to expect a fair, factual, balanced, well researched programme that would stand up to scrutiny in relation to the historical facts and in addition to present reasonably plausible outcomes to the 'What If' questions it posed since the programme asserted the use of actual historical documents and sources and expert commentators.

The programme failed to deliver on many, if not all of these requirements. Mr. O'Brien believes this is a misrepresentation of history. He has set out his complaints in numbered summary points and each of these is followed by what the complainant believes is validations of his complaints.

#### **Complaint: Summary Points**

1. The programme (through its narrators and contributors and dramatisations) presented its content in an almost totally unbalanced manner in relation to some of the key players represented in the programme notably Neil Blaney and Kevin Boland in representing them as *'Hawks'*, *'Hotheads'*, *'Republicans'*, *'high profiled hardliners on Northern Ireland'* and as the *'ministers that wanted an immediate incursion into the North at the August 13<sup>th</sup> 1969 Cabinet meeting'*. The programme ignored other key players and major contributors to the August 13<sup>th</sup> cabinet meeting, notably Jim Gibbons Minister for Defence at the time.

**Validation of complaint:** These assertions could not have been further from the truth. Where in the historical record prior to August 13<sup>th</sup> 1969 is it stated or recorded that these men were *'Hawks'*, *'Hotheads'*, or *'high profiled hardliners on Northern Ireland'*. Would they not have been members of or created anti-partitionist organisations if they were such at that time. The statement that they were *'Republicans'* is quite true. In fact everyone at the cabinet meeting on August 13<sup>th</sup> 1969 was a stated Republican being a member of Fianna Fáil the Republican Party as it is called to this day. In singling out Neil Blaney and Kevin Boland only to be described as *'Republican'* the apparent objective of the programme makers to suit the thrust of their documentary is to associate with Neil Blaney and Kevin Boland any odium that may have become associated with the word *'Republican'* in the public mind over the course of the subsequent 30 years strife in Northern Ireland. Any such odium did not exist in August 1969 so soon after the 1966 Commemoration of the 1916 Rising. The Ministers Neil Blaney and Kevin Boland as proven elsewhere below did not seek immediate incursion into the North at the August 13<sup>th</sup> 1969 cabinet meeting – see validation re Lynch's speech item 4 'a' and 'b'. Given the absence of historical records prior to 1969 that would validate the *'Hawks/Hotheads'* tag attached to Blaney and Boland one would search the post 1969 records and you would find that these were principled men of the



---

utmost integrity who were vindicated on all occasions by the courts of Law - Neil Blaney having his Arms Trial hearing case quashed at Preliminary hearing stage as having no case to answer and Kevin Boland being awarded substantial compensation in a case against Independent Newspapers at which trial former EEC Commissioner O'Higgins (FG) described himself and Kevin Boland as two sides of the same coin. During the conclusion of the programme a video clip says five men have been charged with arms importation and another video clip shows Jack Lynch saying that there was no doubt that there was a conspiracy to import arms 'illegally'. Notwithstanding that a 'Secret Fund' was set up by the Government and notwithstanding that a video clip shows Neil Blaney talking of vindication, nowhere in the programme is it revealed that the Courts decided that Neil Blaney did not even have a case to answer and that the other four were acquitted. Neil Blaney after 1970 continued to serve his country as a TD and MEP and Kevin Boland worked on many projects, some with Seán McBride (Nobel and Lenin Peace Prize winner). Given the nature of this programme the complainant asks the Authority to apply the tests of Libel Laws to the statements and misrepresentations made against these men and decide if these men were alive today 'would they have been victims of a libellous programme'.

Jim Gibbons was a key player and a key contributor to the decisions taken as the Minister for Defence at the August 1969 cabinet meetings and at subsequent 1969 Cabinet meetings. Ministers at that time were very careful not to intervene in other Ministers departments. It was Jim Gibbons as Minister for Defence that requested a Feasibility Report from the Irish Army as to what the Irish Army could do, if required, to protect the Catholics/Nationalists in Northern Ireland in the event of certain life threatening situations arising. It was Gibbons that had summoned the Irish Army Chief of Staff, by way of letter dated 10th September 1969, to a meeting in Parkgate scheduled for 13th September 1969. It was Minister Gibbons sanctioned the training of men from the North at Irish Army bases. In fact 10 men from the Citizens Defence Committee in Derry were trained at Fort Dunree. This clearly demonstrates full cabinet knowledge of actions taken to help the Northern Nationalists to defend themselves. Yet the programme ignored such an important player who was equally as vociferous and concerned about the plight of Northern Nationalists as were Kevin Boland, Neil Blaney, Joe Brennan and others. His exclusion raises a serious question about the programmes objectivity and attention to detail.

2. The programme represented the Cabinet as *'bitterly divided'* at the August 13<sup>th</sup> 1969 meeting that commenced at 2.15pm and yet it did not represent BOTH SIDES of the supposed *'bitterly divided'* cabinet in its dramatisations of that meeting. Why?

**Validation of complaint:** In relation to the Minutes of the Cabinet meetings of 1969 that became available for public scrutiny after the 30 year rule, RTÉ's John Bowman examined these in his article in the Irish Times on January 3 2000 where he wrote - *'Irish Cabinet minutes are disappointing. Indeed, they are not minutes at all. They leave no trace of the exchanges between ministers but merely record decisions taken. ... But the cut and thrust of the Cabinet exchanges remain unrecorded.'* Yet the programme spoke of Hotheads, bitterly



---

dissenting voices etc. at the August 13<sup>th</sup> 1969 Cabinet meeting and yet only dramatised one side of the arguments that it said were presented to the Cabinet meeting. A clear lack of balance maybe but I think the answer is more likely hidden in TK Whittakers (Adviser to Jack Lynch) comment in the programme in relation to Jack Lynch's dilemma at the so-called bitter meeting. Whittaker commented thus .. *"It was hard to discern who was for peace and who was for invasion"*. Surely if the sides were bitterly divided it would have been very easy to *'discern who was for peace and who was for invasion'*. Clearly the programmes assertions are self contradictory in that instance. In fact the more likely scenario is that a number of the cabinet ministers were gravely concerned about developments and put forward ideas about how to engage the British as quickly as possible. For other Cabinet Ministers it was either not within their area of competence or they preferred the 'wait and see approach'. In any event for a meeting that started at 2.15pm quite a number of decisions had been made by 5.00pm all of which indicated that the last thing the government was planning was an Invasion of Northern Ireland. Indeed the amount of work got through on that day by Cabinet does not tally with the idea of a Cabinet in dissentful disarray. TK Whittaker's further comment that *"there were people that you wouldn't expect who were so Republican that they thought they would have to resort to arms"* suggests to me that these must have been people other than Blaney, Boland, Gibbons and Haughey. In that case we have accounted for a majority of the 10 Ministers present at the meeting – most of them apparently gun slinging republicans if you are to believe the programmes commentators.

3. The programme both through its dramatised sequences and its contributors represented the Irish Army as ill equipped – *'a WW II army equipped with WW I weapons'*, not fit for purpose, unprofessional, and to quote contributor Mike Weir *'It's an absurdity to think that, quite frankly, a puny military force like the Irish Army could in any form whatsoever take on the British Army.'* He also described the Irish Army as *'Tinpot'*.

**Validation of complaint:** The Irish soldier of 1969 was armed with much the same weapons as his British counterpart: each had his own army's version of the Belgian FN rifle so popular among Western forces that it was referred to as *'the right arm of the free world'*, both had the Bren light machine gun and the FN General Purpose Machine Gun. Both had 9mm submachine guns, the Gustav and the Sterling. Each used 81mm mortars and the Carl Gustav 84mm recoilless rifle, a powerful anti armour and anti-personnel weapon still widely used in upgraded forms today. The Irish Army's purpose was to defend our nation and to carry out its duties as a member of various peace keeping missions. In so doing it was required to prepare for likely threats to our territorial integrity and since there were none any scaling up of the army in a neutral nation such as ours would have been a waste of taxpayers money. The army at all times acquitted itself in a professional manner and was not the 'Tinpot' army referred to by Mike Weir a former British army contributor to the programme. Interestingly it was Mike Weir the Daily Express 's battle expert that informed an audience of 90 editors in February 2003 that "Well briefed military commentators put the likely duration of the fighting in the War in Iraq at a single week". An Irish Army that was prepared to adopt 'unconventional warfare' techniques as discussed in their Feasibility



---

Report could have caused serious problems for the British Army as did the Provisional IRA and others that the British Army recently admitted that they could not defeat. So much for the programme's choice of military expert and his *absurdity* comment above re the Irish Army.

The dramatisation of the Irish Army retreat in Newry was an absolute joke as both armies represented did not have uniforms appropriate to the period; both armies apparently ignored standard army tactics – the Irish army providing no cover for its retreat and the British army having men running after the Irish army into their own soldiers' line of fire. The pursuing British soldiers were also wearing riot helmets with visors. Both armies ended up in the middle of a field in a manner of children chasing a football. In this regard the programme was balanced as it made both armies look stupid but of course it was a highly implausible dramatisation. Who were the factual sources (C) above used for this? I highlight this dramatisation to show just how unprofessional and unreliable a programme this is. Basic research was clearly lacking.

4. Lynch's Speech on RTE 9.00pm Aug 13<sup>th</sup> 1969:

- a) In representing that there had been a number of drafts of the speech prepared, '*some more bellicose than others*', the programme failed to point out who had actually prepared the speech to the Nation given by Lynch on RTÉ. Why?

**Validation of complaint:** The simple answer is that the cabinet delegated the writing of the speech to Neil Blaney and Kevin Boland. That is why Jack Lynch was making some adjustments to the speech prior to the televised programme to give it his touch. It was Blaney and Boland that insisted that Lynch make a speech to the Nation. This was the minimum response required as Irish people, many only new to witnessing scenes of violence on Television, were horrified at the attacks on the Nationalists in the North and many indeed were threatening to take the law into their own hands and travel to the North. This could not be allowed to happen. The admission of Blaney and Boland's input into the speech would not have suited the 'Invasion of Northern Ireland' fanciful scenario that the programme makers wished to depict and the speech's contents give the lie to the invasion theory given Blaney and Boland's drafting of the speech.

- b) The programme questioned what was meant by the statement in Lynch's speech – "*We cannot stand by*" and then in a sensationalist manner the programme narrator went on to say "*to some this amounted to a declaration of war*". Dr Michael Kennedy, Royal Irish Academy represented its meaning as '*various battalions of the defence forces are going to be crossing the border after nightfall .... a classic invasion of a neighbouring territory*'. These interpretations are at odds with the documented facts of the time and the full text of Lynch's speech.

---

**Validation of complaint:** The minutes of the Cabinet meetings demonstrate the sequence of events, decisions and indeed Lynch's speech itself made it clear what the Irish Government proposed to do relative to its engagement with the British in regard to the developing Northern Ireland situation. Lynch in his speech said "*Recognising, however, that the reunification of the national territory can provide the only permanent solution for the problem, it is our intention to request the British Government to enter into early negotiations with the Irish Government to review the present constitutional position of the Six Counties of Northern Ireland.*" It is clear from this that the Irish Government intends to enter into negotiations with the British and NOT go to war with the British. Also it was a British Labour Government that was in place at the time and there were good relations between the governments at the time particularly as they had been working together on their EEC application. Also the Labour Party was known to be sympathetic to the plight of Irish Nationalists in the North. On August 13<sup>th</sup> 1969 the decisions of cabinet included asking the British Government to get Northern Ireland Security Forces to desist from shooting Nationalists and to engage the United Nations in the matter and also the setting up of field hospitals close to the border as a humanitarian gesture. The subsequent days Cabinet decisions included offering Irish Army co-operation to the British to form joint British and Irish peace-keeping forces in the North. None of these points to either an intention or a desire to 'Invade the North'.

5. The programme created a totally false, fanciful, and inaccurate pretext against which an 'Invasion of the North' would or could take place.

**Validation of complaint:** The show used, in sequence, selected passages from the Lynch speech, an alleged bitterly divided Cabinet, Irish Army War Games, and The Interim Feasibility Report of an Irish Army Board to create the impression that an '*Invasion of the North*' was a plausible possibility. The lack of any declared intent or even threat to invade the North by the Irish Cabinet left the programme makers grasping at straws and they put together the above sequence that added each item of the sequence in an out of context manner. This to me is blatantly deceptive particularly as it leads to a misrepresentation of history and further implied that certain Ministers could have become responsible for a '*bloodbath*'. These Ministers are not around now to protect their good names, and respect for the good name of the dead has always been a tenet of common decency. The sequence presented by the programme created a false pretext because:

- (i) the Lynch speech clearly set out that it was the intention to negotiate with the British (see above)
- (ii) from TK Whittakers comment and other information the cabinet was not bitterly divided (see above)
- (iii) all professional armies have War Games as training for officers and men, and the Irish Army War Game described in the programme relative to Northern Ireland was Armageddon. The very fact that when the



---

Cabinet, through the Dept. Defence, requested a feasibility report from the Army as to how it might help the Northern Nationalists it was NOT the War Game Armageddon that was prepared but an Interim Report of the Planning Board on Northern Ireland Operations.

- (iv) It is the Irish Army Interim Report of the Planning Board on Northern Ireland Operations that the programme drew on to suggest that we could have 'Invaded Northern Ireland'. The Interim Report in itself was just that – it clearly set out that it had not all of the information it required. In doing so it set out clearly its 'Limitations on Object'. The programme did not reveal this vital information about the Interim Plan nor did it reveal that the report was in effect a feasibility report. Furthermore the programme incorrectly interpreted the armies declared ability to ONLY provide 'support operations' in Derry and Newry as a preparedness to go to war whereas any respectable analyst would interpret the document as setting out the armies inability to launch an 'Invasion of the North'. Indeed in its Limitations on Object section the Interim Plan pointed out that 'Psychologically the Defence Forces are oriented as defence (including offensive defensive operations). Also it pointed out that a clearly defined 'Political Objective' was not defined. Tony Benn had suggested that going to war without one was highly unlikely. Mr. O'Brien believes the programme deceived its viewers in relation to the full context of the Irish Armies Interim Report.

6. In accessing:

- a) the international ramifications of an 'Invasion of the North' by the Irish Army, the programme suggested Ireland could have become internationally isolated, EEC membership might not have been granted, and subsequent economic prosperity forsaken. These interpretations are at odds with the documented facts of the time and exclude many of the reasons for our subsequent economic prosperity.

**Validation of complaint:** Ireland already had a permanent representative to the European Commission in 1963 and was well advanced in its negotiation in 1969 having already had associate membership suggested ahead of the British which the British were keen Ireland did not accept and which we did not. Europe understood Irelands special circumstances for not being NATO members along with Britain but was keen to involve Ireland in Europe's defence. In this context it was considered highly desirable to have Ireland a member, the major block to British membership had been General De Gaulle and by the 1970's this was no longer the case. Mr. O'Brien refers to the paper by Dermot Keogh '*The Diplomacy of dignified calm: an analysis of Irelands application for membership of the EEC*'.

- 
- b) the reaction of the United Nations to an 'Invasion of the North' by the Irish Army the programme through a contributor, author Thomas Hennessy, states that Ireland would have had *'no case to put before the UN'* and as Desmond O'Malley had stated *"legalistically they (the British) may have been right in saying that it was an internal United Kingdom matter"*. Both are incorrect and the programme did not provide any rebuttal of this and again, the complainant believes there is clear lack of balance in the programme presentation.

**Validation of complaint:** On the 14 December 1960 the United Nations General Assembly proclaimed Resolution 1514 (XV) Declaration on the Granting of Independence to Colonial Countries and Peoples. The Declaration states that "the subjugation of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the United Nations Charter, and is an impediment to the promotion of world peace and cooperation, and that steps should be taken to transfer, unconditionally, all powers to the trust and non-self-governing territories so that they might enjoy complete freedom and independence. Taken together with Resolution 1541 (XV) this also facilitated integration into an independent State. Thus Ireland had a very valid legal recourse to the United Nations.

- c) the internal ramifications in Northern Ireland the programme suggested *'a cycle of Yugoslav ethnic cleansing'* and *'Bosnia/Croatia type violence'* could have resulted from an Irish Army invasion. This is a very unbalanced interpretation and ignores many of the existing laws of the UK and UN requiring immediate action to protect citizens.

**Validation of complaint:** thanks in no small part to the persistence of the so called *'Hawks and Hotheads'* constant pressure was kept upon the British Government to intervene and by August 14<sup>th</sup> British troops were on the streets of the North to prevent a 'bloodbath'. So the *'ethnic cleansing'* scenario is nothing more than sensationalist. Furthermore the threat of having the matter raised at the UN sharpened the British concentration as the Argentinean Government had already invoked discussion re the Falklands under the UN Resolutions set out in 'b' above.

7. Use of Desmond O'Malley as a contributor and lack of any counter balance to his views: Desmond O'Malley's actions, post the August 1969 period, as Minister for Justice, in the matter of the Arms Trial, have historically been questioned particularly in regard to the trial of Captain James Kelly. Much of what the cabinet knew and had agreed at the August 13<sup>th</sup> 1969 and subsequent August and September 1969 meetings could be said to have been referred to and adjudicated upon during the Arms Trials. Mr. O'Malley's use of 'imprecise' language on occasion in the programme (which programme had made a big issue of being factual as set out in points A,B and C above) was notable to Mr. O'Brien and hardly appropriate when used in Mr. O'Malley's descriptions of members of the cabinet at the time of the August 13<sup>th</sup> 1969 Cabinet meeting and in his descriptions of their preferred actions.



---

**Validation of complaint:** O'Malley stated "*Boland was the most vocal and Blaney wasn't far behind him I think. Their attitude was the government should take a very belligerent stance, they wanted, you know, overt military activity. I suppose a nice way to put it would be hearts ruling heads. But I think there were some people, you know, who kind of felt violence was justifiable*". Mr. O'Brien questions if this supposed to be a round about way of saying that the North was to be invaded? Surely he might have said this straight out if that was the fact. It is widely known that at the time of the Arms Trial O'Malley was Minister for Justice, Michael O'Morain having been removed. In the course of the trial a statement by Col Hefferon, that would have shown that Captain Kelly was acting under orders, was presented to the Court in a doctored form with handwritten amendments, now known to have been made by Peter Berry, then the Secretary of the Department of Justice and on the front of this document was a stamp that said "seen by the Minister 1/6". The complainant believes Mr. O'Malley has subsequently stated that he does not remember seeing the Col. Hefferon statement. How good then is Mr. O'Malley's memory?

Mr. O'Brien states that as best he can ascertain, no members of Mr. Blaney or Mr. Boland's family or others close to them were contacted in the making of this programme. No attempt at providing balance or fairness in relation to these former Ministers and key players of the documentary subject matter seems to have been considered.

Having served on various committees with both Neil Blaney and Kevin Boland over the years, the complainant states that he, along with many others, came to respect their great honesty, integrity, fairness and responsible approach to all matters under consideration. Mr. O'Brien submits his complaint to the Board, not only in the hope of vindicating their good names, but also in the hope that the Board will set out guidelines to prevent similar programmes masquerading as factual television, distorting history and showing no regard to the good names of the dead who are no longer around to defend themselves.

**Station's Response:**

RTÉ states that the subject matter of the programme was events which happened forty years ago and, therefore, the programme is based on historical understanding. The notion of objectivity in historical research is based on conclusions which are reached after careful analysis of archived records and, where possible, interviews with surviving witnesses. However, as is recognised in all historiography, there is no absolute historical understanding; events are re-interpreted in the light of available evidence and take into account contemporary understanding which is influenced by events which have occurred since the event under examination took place. To make this less abstract, it is the case that our current understanding of events in 1969 is influenced by what happened in Northern Ireland and in Anglo-Irish relations over the course of the last 40 years. Section 39 is primarily an obligation in regard to the reporting of current events.

Its application in regard to historical understanding must take account of the nature of the manner in which historical research is carried out and the tentative nature of any conclusions reached. This is particularly the case when the starting point of a documentary is a hypothetical question. Any development of a hypothesis has to involve a degree of speculation as to the likely outcome of events had they happened in the manner described.





---

It is RTÉ's view that the documentary, which was commissioned from the production company Double Band Films, meets all requirements in regard to impartiality, objectivity and fairness to all interests concerned.

RTÉ is attaching a submission from Double Band Films. As broadcaster and publisher of the documentary RTÉ wishes to state that the attached submission by Double Band Films represents RTÉ's views on the complaint fully. RTÉ can fully appreciate that Mr. O'Brien, the complainant, may not agree with the conclusions reached by the programme-makers. But this doesn't mean that the conclusions reached by the production team were not impartial and objective. The producers examined all the evidence available to them and came to their conclusions as to how it is likely the hypothetical events would have worked out. That there is disagreement at the end of that process is not unexpected. Historians differ in their interpretation of historical events. This is to be expected and provided that evidence and witnesses are treated with respect and due care is exercised there is no reason to believe that impartiality hasn't been achieved.

### **Producers' Response:**

#### **Introduction**

In reply to Mr. Blaney's complaint to the BAI relating to our production for RTÉ, *If Lynch Had Invaded*, firstly we would like to draw attention to the complaint as being made on the grounds of an infringement of: Section 24(2)(a) Fairness, Objectivity & Impartiality in Current Affairs.

The above programme was not commissioned, nor produced as a current affairs programme. It was commissioned as a history production, though the producers of the programme, abided by the rules of fairness, objectivity and impartiality.

In response to Mr. O'Brien's overall contention that the producers of the programme failed to deliver, "a fair, factual, balanced, well researched programme", Double Band Films would disagree with that contention.

1. The historical events explored in the programme, ie. the crisis that was provoked within Fianna Fáil government by the outbreak of violence in Derry on 12<sup>th</sup> August 1969, and the following debate over proposed military intervention by the Irish Defence Forces within the cabinet, and further relationship of figures within this government to the both the Arms Crisis and Trial have always been subjects that have provoked controversy, debate, and disagreement. The producers of the programme set out to deal with these events in a balanced, objective and impartial way, and the opinions expressed in the programme are the interviewee's own personal opinions and reflections.

2. The programme made very clear at the outset, through the on-screen card which stated that as well as including reconstructions on actual events, the programme featured dramatised sequences that have used factual sources to illustrate one version of what may have happened had an invasion of Northern Ireland taken place. The title of the programme was also very clear i.e. *If Lynch Had Invaded*, that the very premise of the programme contained a hypothetical analysis, and which was based upon former Irish Defence Forces Captain, and Irish Times security correspondent Tom Clonan's own analysis of the scenario outlined in Irish Defence Forces contingency plans, ie. a move by the Irish Army on the border town of Newry. Likewise, the





---

presenters made frequent references throughout the programme to the 'what if' scenario that was being explored.

3. The other accounts of events on both the 12<sup>th</sup> and 13<sup>th</sup> August 1969 were based on historical accounts from academically respected sources including Prof. Dermot Keogh's recent biography, *Jack Lynch: A Biography* (2008); Dr. Michael Kennedy's chapter on the 1969 crisis in his book, *Division and Consensus: The Politics of Cross-Border Relations in Ireland 1925-1969*; and Dr. Thomas Hennessey's book, *Northern Ireland: The Origins of the Troubles* (2005). The script for the programme was developed through consultations with, and approved by two leading Irish historians, Dr. Michael Kennedy of the Royal Irish Academy, an expert on the history of Irish Foreign Policy, and Professor Richard English of Queens University Belfast, author of the award-winning *Irish Freedom: A History of Irish Nationalism*.

**Summary Points:**

1. In response to Mr. O'Brien's points on terms used in relation to the late former ministers Neil Blaney and Kevin Boland, these were descriptions used in what the programme-makers took as the general historical view of these ministers in describing their robust views on the issue of the Irish government's response to events within Northern Ireland on the 12<sup>th</sup>-13<sup>th</sup> August, after the outbreak of violence in Derry following the Apprentice Boys march.

The producers do not accept that the terms "hawks" or "hardliners" are unfair, pejorative or misleading with regard to Mr. Blaney's and Mr. Boland's recorded position in relation to events explored in the programme. Leading historians on the period identify how both Mr. Blaney and Mr. Boland wanted a strong response to the events in Northern at this time. For example, in Prof. Dermot Keogh's *Jack Lynch: A Biography*, p. 169, he writes that at the emergency cabinet meeting on the 13<sup>th</sup> August 1969, "*there had also been wild talk about cross-border intervention. Dick Walsh wrote that Haughey, Boland and Blaney had demanded that the 'Republic take a hand in the fighting.' They wanted the Irish Army to go into Derry or Newry, or both.*" (Dick Walsh was an Irish Times journalist at the time, and Prof. Keogh quotes from Walsh's own book, *The Party: Inside Fianna Fail*, 1986. Walsh died in 2003).

The term, "hotheads", which Mr. O'Brien also takes issue with is not used by the programme makers themselves in reference to Mr. Boland and Mr. Blaney. This is a personal opinion of these men, as expressed in the programme by former advisor to Jack Lynch, Mr. TK Whitaker. However the other terms, as used in the script reflect the strong views, opinions and feelings held by the above ministers, at a time when feelings ran high and tensions existed within the Irish government on the issue of how the Jack Lynch and his government should respond to the Northern crisis.

In relation to Mr. O'Brien's issue with closing credits sequence which provided on-screen cards with information pertaining to the Arms Trial, we included the information that nine months after the events of August 1969 "Jack Lynch sacked Neil Blaney and Charles Haughey from his cabinet as accusations surfaced they had used this [secret] fund in a conspiracy to import arms destined for the North." The third and final card states that "Kevin Boland resigned from the government in protest over the sackings, claiming that the entire cabinet knew of the plan to send arms across the border." The information provided on these final end-cards are an accurate description of events as they occurred in 1970, and the producers accept



---

that the subject of the Arms crisis and Trial remains a controversial one that continues to provoke debate and difference.

Mr. O'Brien suggests that the programme 'ignored other key players and major contributors to the August 13<sup>th</sup> cabinet meeting, notably Jim Gibbons, Minister for Defence at the time'. The documentary focused primarily on the figure of Jack Lynch, who was Taoiseach at the time, and the programme centred mainly on the impact of events upon him at that time ie. 12-13<sup>th</sup> August 1969. The producers explored the detail of an emergency cabinet meeting held on the 13<sup>th</sup> August and the frictions within it on the issue of how to respond to the crisis in Derry.

Double Band Films did not focus in detail on the figure of Mr. Gibbons, since he was only present in the meeting on the 13<sup>th</sup> August and given the request to bring the Irish Defence Forces up to a state of readiness. His role was also more significant later at the time of the Arms crisis and trial. He was not a leading figure in events on the 12<sup>th</sup>-13<sup>th</sup> August, the period of the programme's narrative focus. In the 'what if' or counter-factual scenario explored, the producers featured the military figure of General Sean McKeown, who was the Chief of Staff of the Irish Defence Forces. He would have had the ultimate responsibility of carrying out the government's orders, had an incursion across the border been requested.

2. Double Band Films, as programme-makers, went to great length in researching the details of the Cabinet meeting was held on the 13<sup>th</sup> August 1969, through respected available historical sources (see above), and access to cabinet documents.

Along with Mr. Des O'Malley, who was Parliamentary Secretary to Taoiseach Jack Lynch at the time, and who attended the meeting, the only remaining figure from that Cabinet of August 1969 is Mr Padraig Faulkner, who was Minister for Education at the time. However, Mr. Faulkner is currently suffering from ill-health, and declined to be interviewed. However, it is important to state that he was also not at that meeting. All other members of the August 1969 cabinet are dead.

Since the focus was very much on the detail of this meeting, the producers did not interview other figures outside this circle, except Mr. TK Whitaker, who played a crucial role as Jack Lynch's advisor on Northern Ireland policy at the time. The method in making the programme was to focus on interviewing only first-hand witnesses, or people party to events at the time, and not family members or relations.

3. In response to Mr. O'Brien's issue with the programme's depiction of the Irish Defence Forces in 1969 as being ill-equipped, Double Band Films provided an accurate view of the limited resources available to the Irish Army in August 1969. Our view was based on the opinion of former Irish Defence personnel as interviewed in the programme, our consultants view, historical sources, and military documents.

The two former British Army personnel interviewed for the programme are also respected military historians. Major-General (Retd.) Julian Thompson is a former Royal Marines Officer, who served in N. Ireland, and as Brigadier commanded 3 Commando Brigade during the Falklands War. He is also a visiting Professor at the Dept. of War Studies, Kings College, London. Lieutenant Colonel (Retd.) Mike Dewar served with 3<sup>rd</sup> Royal Green Jackets in Northern Ireland, is a former instructor at the Royal Military Academy, Sandhurst, and



---

author of *The British Army in Northern Ireland*. Their opinions expressed in the programme are their own personal views. However, their view of the limited capability of the Irish Defence Forces at the time, concurs with the personal views of the former Irish Defence Force personnel interviewed in the programme, who express their own opinions on the lack of resources and military strength possessed by the Defence Forces in August 1969.

Regarding Mr. O'Brien's objection to the reconstructed scenes in the programme, and the "dramatisation of the Irish Army retreat in Newry", the conception of such scenes was stated clearly in the opening sequence of the programme as scenes of reconstruction. However, as was clearly stated in the programme, the events that were 'reconstructed' in this sequence did not actually happen. Again, as is clearly stated, they represent an interpretation of *one version* of what *might have* happened, based upon Captain (Retd.) Tom Clonan's own analysis. From the title of the programme itself, to the narration within the pre-title sequence ("this is the story of what might have happened....") and repeated references to the 'what if' scenario, this element within the production is clearly identified as hypothetical.

4. (a).

The producers do not accept Mr. O'Brien's contention that the programme "failed to point out who had actually prepared the speech to the Nation given by Lynch on RTE." As Dr. Michael Kennedy explains in the programme: "There is an entire separate history around the speech Lynch made on the evening of the 13<sup>th</sup> August, the various drafts it goes through, what's presented to the cabinet earlier in the day, and I think the fumbling with the scrappy, poorly written speech is indicative of the situation in the cabinet that day, the uncertainties and the poorly prepared policy, that they are doing everything on the hoof. Its ad-hoc decisions without proper intelligence, information without proper briefings. They are reacting. Dublin's policy on the 13<sup>th</sup> [August 1969] is a reactive policy."

It should also be pointed out that the prevailing historical view is that Mr. Blaney and Mr. Boland's influence upon the final speech, as made by Jack Lynch at RTÉ, was in creating a tougher and more robust speech from the other versions that they considered too moderate. For clarification of this view please see Prof. Dermot Keogh's *Jack Lynch: A Biography*, p. 168 for details of this: "It appears that many of his Government colleagues reacted strongly to the cautiousness of the two drafts. They were dismissed as mere civil service talk by Blaney, Boland and Haughey."

In consideration of the above the producers maintain that the programme presented a fair and accurate account of events surrounding the drafting of the Taoiseach's speech.

(b).

Mr. O'Brien contends that the programme "sensationalised" reaction to the Taoiseach's phrase "we will not stand by" by claiming that "to some this amounted to a declaration of war."

This is, however, a statement of fact – one that is clearly identified as such by contributions from various interviewees which immediately follow this line of narration.



Interviewee Mr. John Taylor (former Junior Minister for Home Affairs within the Northern Ireland government at the time) talks in the programme as to his and the NI Prime Minister's James's Chichester-Clark's reaction to Lynch's speech: "James Chichester-Clark believed that the Irish Army was going to invade Northern Ireland. I was very anxious, very worried, because I knew it depended on me advising the Prime Minister to what exactly was going on." Sir Ken Bloomfield was Secretary to the Cabinet in the NI government of the time, and says in the programme that Lynch' speech provoked within the Unionist community, "growing alarm" and fears of the "Irish Army moving over the border."

There were also fears within the British government on the night of the 13<sup>th</sup> August 1969, after Jack Lynch's speech, illustrated by the reaction of the British Home Secretary, James Callaghan. This is described by his biographer, Lord Kenneth Morgan in the programme, who cites Callaghan's view of Lynch's speech as adding "new elements of danger to what was a dangerous situation and the idea that another government would come in and try to assume control compulsorily from an area of which the British government had sovereignty and which could be assumed to an act of war and an invasion. It would not have been acceptable."

More detail of James Callaghan's own personal view of Lynch's speech on the night of the 13<sup>th</sup> August 1969 can be found in his own autobiographical account (A House Divided, 1973) on p.39. He saw Lynch's speech as "putting fat in the fire." He also writes that "We had to consider the possibility that within the next twenty-four hours that we might face both civil war in the North and an invasion from the South."

Eamon McCann, another interviewee, also points out within this sequence of the programme that residents in the Bogside interpreted Lynch's speech – and in particular the phrase "we will not stand by" – as an indication that the Irish Defence Forces were about to cross the border and that, indeed, rumours of them having already done so were rife.

5. In response to Mr. O'Brien's opinion that the programme created a "totally false, fanciful and inaccurate pretext against which an 'Invasion of the North' would or could take place, the producers again would maintain the clear stating at the beginning of the programme that, while the documentary includes "reconstructions based on actual events...It also features dramatised sequences that have used factual sources to illustrate one version of what may have happened had an invasion of Northern Ireland taken place." Also within the body of the programme, this was reinforced in a joint piece-to-camera by our two presenters Tom Clonan and Keelin Shanley, who said this was one version of events.

The counter-factual scenario based upon an incursion across the border incursion and into Newry by a company of the Irish Defence Forces was based on Captain (Retd.) Tom Clonan's own personal analysis, and clearly stated as this. The script for this 'counter-factual' scenario was also subjected to further consultation with Dr. Michael Kennedy, who verified and tested the details of such a scenario with the assistance of retired former Irish Defence Force personnel who served at this time.

Mr. O'Brien claims Lynch's speech "clearly set out that it was the intention to negotiate with the British." However the reaction within both the Stormont and London governments at the time to his speech certainly challenges this view. Respected academic analysis also points to the fact that Lynch's government was



---

divided over how to respond to the Northern crisis on the 12-13<sup>th</sup> August as detailed in both Prof. Dermot Keogh's recent biography, *Jack Lynch: A Biography*, pgs. 168-169; and Dr. Michael Kennedy's *Division and Consensus: The Politics of Cross-Border Relations in Ireland, 1925-1969* pgs. 335-336.

In relation to his point (iii) the programme did make clear the difference between the two military documents, ie. Interim Report of the Planning Board on Northern Ireland Operations (27<sup>th</sup> Sept. 1969) and the undated and handwritten, Exercise Armageddon war game document. The programme does not imply, as Mr. O'Brien suggests, that the Exercise Armageddon document was prepared as a result of a request of a feasibility report from the government to the Irish Defence Forces.

On point (iv) and Mr. O'Brien's opinion that we did not reveal the limitations of the Irish Defence Forces capabilities and response, as detailed in the Interim Report, the programme did explore this extensively through the interviews with former Irish Army personnel, who were asked as to their opinions on how disposed they were to making an actual incursion at the time, and the limited resources available to the Irish Defence Forces. Tom Clonan, in various pieces to camera / narration also highlights the logistical challenges facing the Defence Forces in such a hypothetical situation – for e.g. its lack of transport and possible need to hire buses.

Again we would draw Mr. O'Brien's attention to the clearly defined premise behind the programme, that this section of the programme was a counter-factual analysis of what *might have* happened had an actual incursion been made by the Irish Defence Forces across the border, and one version of what *might have* occurred as developed by Captain (Retd.) Tom Clonan. In exploring this, the actual "Limitations of Object" are evident in the programme through the interviews and responses from former Irish Army personnel in relation to the prospect of making an actual incursion across the border.

It must also be pointed out that Mr. O'Brien complains about the programme's depiction of the Irish Defence Forces as being ill-equipped for this hypothetical scenario (as noted in Point 3 above) but also accuses the programme of failing to reveal the limitations of the Forces.

6.

(a). In response to Mr. O'Brien's objection to the programme's examination of the "international ramifications" of an invasion by the Irish Defence Forces, and the suggestion that "Ireland could have become internationally isolated" and that "...EEC membership might not have been "granted" had the country staged such a hypothetical incursion in the North. Again, it must be stressed that the programme presented the views of leading experts in the field, including Dr Michael Kennedy (a recognised expert on Irish Foreign Policy with the Royal Irish Academy), Prof. Diarmaid Ferriter (Prof. of Modern Irish History, UCD) and Stephen Collins (Political Editor, *The Irish Times* and historian) of what *might have* happened in such a scenario. The views expressed were their own personal opinions, however do also represent a consensus view of the long-term impact upon the Republic of Ireland, had an army incursion been ordered by Jack Lynch's government.

(b). Mr. O'Brien contests the opinions, as expressed by both Dr. Thomas Hennessey (author of *Northern Ireland: The Origins of the Troubles*, 2005) and Mr. Des O'Malley, that the Irish government would have had



---

difficulty in pursuing the intervention of the UN in August 1969, in Northern Ireland. Mr. O'Brien believes that Mr. O'Malley's opinion as expressed in the programme that "legalistically they (the British) may have been right in saying that it was an internal United Kingdom matter" is incorrect, as is Dr. Hennessey's view.

Again, these are the interviewee's own personal views, though once again, they do reflect the consensus view of events at the time, and how the British government reacted to the Irish government's hope to involve the UN. As Dr. Michael Kennedy details in his book (*Division and Consensus*, p. 338), the British government's view on this was represented and stated by Lord Chalfont in a meeting requested by Kevin Rush, charge d'affaires with the Irish Embassy in London, at 5pm on the 13<sup>th</sup> August 1969. "On the issue of Britain involving the United Nations in the crisis, he [Lord Chalfont] restated that the issue was an internal one for the United Kingdom to deal with and that the United Nations was not an appropriate forum in which to raise the issue. Chalfont was aware he was following the official Foreign Office line..."

While the Irish government had, as Mr. O'Brien says, "a valid legal recourse to the United Nations" it is argued by some historians and commentators that the British government would have exerted a veto over this on the grounds that the issue of Northern Ireland was an internal British one. The facts illustrate the Irish government's lack of success of engaging the UN on the issue and are outlined in detail in Prof. Dermot Keogh's biography of Jack Lynch on pgs. 190-191 which detail Patrick Hillary's (Min. for External Affairs) limited success in even getting the issue heard at the UN Security Council meeting on the 20<sup>th</sup> August 1969.

(c) In response to Mr. O'Brien's taking issue with how the programme examined the internal ramifications in Northern Ireland, he disagrees with interviewees in the programme, such as Stephen Collins, as well as Tom Clonan's view that an incursion by the Irish Army at the time could have provoked a loyalist backlash against Catholics in Northern Ireland at the time.

Again, these are their own personal views – clearly identified as such – on what might have happened in such a hypothetical situation, as expressed in the programme.

7. In response to Mr. O'Brien's complaint over the lack of counter balance to the use of Mr. Des O'Malley in the programme, the programme's narrative focused on the events of the 12-13<sup>th</sup> August 1969, and explored in detail the events on the 13<sup>th</sup> August, when the Irish government held an emergency cabinet meeting to discuss how to respond to the outbreak of violence in Derry.

As the only person living person who attended that meeting, Mr. Des O'Malley was an important 'eye-witness' interviewee for the programme and he gave his own personal account and recollections of what took place within the cabinet room. Nobody else could have given such an account or indeed an alternative version of events. It is, however, worth pointing out that the programme makers did contact the only surviving Minister from that August 1969 cabinet, Mr. Padraig Faulkner (former Min. for Education). However, he was not actually present at the 13<sup>th</sup> August meeting and due to ill-health declined to be interviewed.

Mr. Des O'Malley was present at the meeting as Parliamentary Secretary to Jack Lynch, and was there in that capacity, though he had no voting role. Mr. TK Whitaker was also interviewed, and while having not





---

attended that meeting, was at that time an advisor and confidant of Jack Lynch's on Irish government policy towards Northern Ireland and so was an important interviewee.

Mr. O'Brien questions Mr. O'Malley's reputation in relation to his time as Minister of Justice during the Arms Trial. However this is a matter of Mr. O'Brien's own opinion and, indeed, was not an area of focus in the programme. As stated above, the programme dealt with the period of 12<sup>th</sup>-13<sup>th</sup> August 1969, and not the events of the Arms crisis, and subsequent trial, that came to light the following year. Again, both the views expressed by Mr. O'Malley and Mr. Whitaker are their own personal views.

In relation to the above point, Mr. O'Brien asks the producers did not contact or interview members of Mr. Blaney or Mr. Boland's family. We did not do this because they did not attend the above mentioned meeting, in the same way as we did not approach members of Jack Lynch's family. Our focus was, as the contributors of the programme illustrate (excepting interviews with historians) as many living, first-hand witnesses to the events featured within the programme.

-----

To conclude, the producers emphasise the following points:

1. The programme features an analysis of events that took place forty years ago and that, as such, are now a matter of historical debate and opinion. Mr. O'Brien is, of course, entitled to disagree with some or all of those opinions expressed within the programme but we do not agree that that forms a legitimate basis for the complaint he has made.
2. The programme explores a hypothetical scenario, offering views and opinions on what *might have* happened should a fictionalised sequence of events taken place. This '*what if*' scenario is clearly identified as such, in the title of the programme itself, in the opening captions, in frequent statements throughout the programme by the presenters (e.g. as in the pre-title: "it's the story of what *could have* happened if Lynch had invaded") and through the context of the interviews. Again, the fact that Mr. O'Brien disagrees with the hypothesis presented by the programme is not, in itself, justification for the complaint he has made. It appears that, on at least some occasions, Mr. O'Brien fails to take account of the fictionalised nature of this aspect of the programme. As was made very clear at the outset of the programme, and during the programme, the counter-factual, or 'what if' scenario was merely one version of what might have happened had Jack Lynch invaded Northern Ireland.

**Decision of the Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant, the broadcaster and the programme producer. The complainant submits that particular claims by the broadcaster and the programme-makers at the start of the broadcast determined that the pending content should have been treated in a fair, objective and impartial manner. In assessing this complaint, the Committee had to have regard to all aspects of the programme brought to the viewer's attention.





---

The Committee noted that the viewer was informed from the outset that the format of the programme was 'what if...'. The title of the programme itself was indicative of the format, a hypothesis on the impact of a hypothetical invasion. Further, at the start of the broadcast the presenters also informed the viewer that the programme would explore the scenario of 'What if Lynch had invaded'. This included a presenter stating that the 'what if' scenario would be based on the opinions of the programme-makers. Therefore, the programme-makers adequately ensured that the viewer was informed that the premise of the programme was hypothetical. In order to present such a scenario, the programme makers had to draw on facts of the events of the time. The programme-maker has editorial independence and this includes the approach to the subject matter in its programmes. In this regard, the programme-makers decision to address a 'what if' scenario based on their interpretation of historical events, is a legitimate editorial decision. This editorial decision in itself cannot determine that the historical nature, and the inherent factual aspects, of the broadcast falls under the fairness, objectivity and impartiality requirements of the Broadcasting Act 2001 as submitted by the complainant.

The complainant also requested that the Committee consider libel with regard to certain statements in the broadcast. The issues as raised by the complainant are not valid in the context of the requirements of the broadcast legislation.

On viewing the broadcast, the Committee found that the subject matter was at all times addressed in an historical context. It explored how such an invasion could have unfolded, 'if' it had occurred. There was no modern day context and/or modern day inference in this broadcast. The impact of the hypothetical scenario was considered solely in the context of the occurrence of the hypothetical event; it was totally self-contained in a historical context. On this basis, the Committee found that it would not be reasonable to consider the content as falling within the confines of current affairs and therefore, the issues as raised by the complainant are not valid within this requirement of the Broadcasting Act, 2001.

[Back to index](#)

**Complaint made by: Mr. Jim Larkin**

**Ref. No. 515/09**

Station:  
RTÉ 2FM

Programme:  
The Gerry Ryan Show

Date:  
6 October 2009

**Complaint Summary:**

Mr. Larkin's complaint submitted under the Broadcasting Act 2009, section 48(1)(b)(harm and offence (Code of Programme Standards) - sections 2.2 due care and 3.3 coarse and offensive language) refers to an excerpt from the film 'Scent of a Woman' played by Al Pacino. Before the excerpt was played, no warning was given that swear words were included and the "f" word was used twice. Mr. Larkin found this shocking and an assault on his right to practice taste and decency in his own home. The complainant also believes the Director General of RTÉ is responsible for a management strategy that fails on ethical grounds to respect codes of practice relating to the 9pm watershed and actions that he believes promotes anti-social behaviour. Furthermore, he believes the broadcast to be well before the watershed and minors, listeners and licence payers should not be subjected to such violent and vile language. There



---

was no artistic merit to justify broadcasting the piece and the presenter made no apology after the piece but rather reminisced how good it was.

**Station's Response:**

RTÉ states that listeners to the *Gerry Ryan Show* were asked to participate in a competition where selected entrants would go on air and perform scenes from their favourite movies. To whet the audience's appetite the programme played a three minute extract from the dénouement of the movie, *Scent of a Woman*, which consists of a trial speech by the character played by the actor Al Pacino. The performance of the speech is widely regarded as an acting tour de force. During the course of the three minutes the 'f' word is spoken on two occasions.

Mr. Larkin's complaint is that the broadcast of the 'f' word is in breach of the 2009 Broadcasting Act where it is stated in section 39 (1) (d)

*Every broadcaster shall ensure that –*

*(d) anything which may reasonably be regarded as causing harm or offence, or as being likely to promote, or incite to, crime or as tending to undermine the authority of the State, is not broadcast by the broadcaster.*

The pertinent consideration in this instance is whether or not the inclusion of the 'f' word caused harm or offence.

It is clear that the complainant Mr. Larkin took offence and RTÉ regrets this. However, RTÉ believes that his reaction would not have been shared by most listeners who would have appreciated that an extract from a movie might contain expletives. Mr. Larkin argues that the extract had no *artistic merit*. RTÉ does not accept this. Movie critics often mention this scene as particularly memorable, both in its writing for cinema, its direction and the performance by Al Pacino.

It is RTÉ policy to restrict as far as possible the broadcast of expletives and to only do so when justified. In this instance, RTÉ regards the inclusion as justified as it occurred in a drama where the language used provided authenticity to the scene being enacted.

Mr. Larkin claims that the inclusion of the expletives was in breach of watershed regulations. He mentions a watershed of 9pm. This watershed only applies to television. In radio the watershed applies to times when children are unlikely to be listening. The extract was broadcast at 10.35 on a school day. RTÉ believes the number of young listeners would have been very small. Regular listeners to the *Gerry Ryan Show* appreciate that the programme is targeted at an adult audience and would have an expectation that, on occasion, strong language and themes more suited to adult listeners would occur.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The Committee noted the complaint concerned the broadcast of an extract from a movie on the *Gerry Ryan*



---

*Show* which included the use of the 'f' expletive. Under the Code of Programme Standards, the Committee must consider if the use of the 'f' word could reasonably be expected to cause undue offence and this includes considering the context in which it was used, the type of programme, time of broadcast, presentation style and audience expectation. The Committee accepts that the word complained of is a word with potential to cause offense and is considered coarse and unacceptable in many circumstances. However, the Committee noted that the word was not used by the presenter or a contributor on the show but formed part of the dialogue in the film *Scent of a Woman*.

The Committee noted that the introduction by the presenter set the context for the broadcast of the film extract; the presenter informed listeners of the prize of a competition. The winner would win a trip to Hollywood and, inter alia, enjoy movies, see the homes of his/her favourite movie stars and stay at the Roosevelt hotel, the birthplace of the Academy Awards. To participate in this competition, listeners would be required to go on air and perform their favourite movie scene. Thereafter, there followed an extract from an award-winning, movie *Scent of a Woman* featuring the well-known film star Al Pacino. On hearing the introduction to the extract, the Committee was of the view that it was appropriate for the broadcaster to choose a movie which won a Golden Award for best picture and a memorable scene with a famous actor who also won an Oscar for that particular role. It was evident that the character in the scene, Colonel Frank Slade, who was blind, was angry and frustrated and becoming more worked up in the course of his speech and, in this context, there was the potential for the use of expletives to authenticate his feelings of anger and frustration.

The Committee was of the view that, when heard as part of that particular dialogue, it was evident to the listener that the word was not used gratuitously or to offend but for dramatic effect. Accordingly, the Committee considered its use was artistically justified in this instance. The Committee also noted that the use of the word occurred towards the end of the excerpt, the excerpt being 3 minutes 30 seconds in length. The Committee was of the view that, at that stage, it would be clear to the listener, even one who was not familiar with the scene, that the movie was of an adult nature and, accordingly may contain strong language.

The Committee noted that at the time of the broadcast, minors of school-going age would be at school. The Committee also agreed with the broadcaster's submission that the show is targeted at an adult audience and regular listeners would be aware that the show discusses topics of an adult nature which are not suitable for children. The complaint was, accordingly, rejected with regard to sections 2.2 and 3.3 of the Code of Programme Standards.

[Back to index](#)

**Complaint made by: Mr. Daniel O'Riordan**

**Ref. No. 523/09**

Station:  
RTÉ Radio 1

Programme:  
The Tubridy Show

Date:  
11 September 2009

**Complaint Summary:**

Mr. O'Riordan's complaint is submitted under the Broadcasting Act 2001, section 24(2)(b)(taste & decency, Code of Programme Standards; sections 2.2 due care and 3.4.2 persons and groups in society).



---

Under the transitional provisions of the Broadcasting Act 2009, section 177(3) the Compliance Committee is obliged to complete investigations which were commenced but not completed by the Broadcasting Complaints Commission.

The complainant refers to an item that featured a discussion on nostalgic Irish radio advertising with special guests Dr. Devereux of University of Limerick and Mr. Drennan (described as being an archivist). On several occasions during this discussion, the phrases “Northsider” or “Northside Dublin” were used as being synonymous with “working class” or “underclass”.

Mr. O’Riordan states that this is lazy, inaccurate and grossly insulting to the 40% of the population of Dublin who live in that region. These offensive references were made by the guests rather than by the presenter, but the latter appeared to endorse and certainly did not question or contradict these views, which were thus allowed to stand as being a valid judgement.

**Station’s Response:**

RTÉ states that on the programme there was an item on classic radio adverts. The two contributors to the discussion were Dr. Eoin Devereux of the Sociology Department of the University of Limerick and John Drennan, described as a sound archivist. The item was a light-hearted nostalgic look back at some radio advertisements over the last 30 years. On two occasions in discussions about adverts for Ballygowan and Perrier waters, the contributors used expressions such as “North of the Liffey, working class accents” and “stereotypical working class Northside Dublin accents”

RTÉ fully accepts that the phraseology used was slipshod and that working class accents are not confined to any particular “side” of Dublin. However, they believe that there was no breach of the Code of Programme Standards. The code states in section 2:

*2.2 Due Care*

*A broadcaster shall exercise due care by taking all reasonable measures to ensure that viewers and listeners of programme material on its channel/service are protected from undue offence and harm*

RTÉ cannot see how the inaccurate references to the geographical location of accents caused offence or harm to anyone. These slips in language occurred when the contributors were attempting to entertain the audience with humorous accounts of some of their favourite adverts. Had the references occurred in an academic context the contributors would have exercised more care. But this was live radio and as is well known in live unscripted speech there is much loose use of language. Any reading of a transcript of live speech shows that even the most careful speaker introduces words and phrases which would not be included in the written form. RTÉ has no evidence that any listener, other than Mr. O’Riordan, has taken offence. RTÉ’s Information Office which logs all complaints received by phone or email did not receive any calls about the *Tubridy Show* broadcast on 11 September.

**Decision of Compliance Committee:**



---

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns references to north Dublin accents. In assessing the broadcast, the Committee had to consider such references in the context of the entire discussion.

The Committee noted the introduction to the discussion by the presenter. He informed listeners that the programme was going to look at classic advertisements over the years and whether they were reflective of the Irish society of their day. In the course of the discussion, there were references to several advertisements. The Committee noted that when discussing the various advertisements the shows two guests spoke of the context and impact the particular advertisements had at the time. This included stating that advertisements are aimed at particular demographics. In this context, references to societal classes were made.

The Committee would acknowledge that the guests referred to two examples where northside working class accents were used, including an advertisement for Perrier, where the female voice-over started with a Dublin accent and ended speaking with a French accent. When heard in context, the Commission found that it would not be reasonable to infer that the statements were intended to be wide-ranging or to stereotype, or stigmatise, any section of the North Dublin community. It was evident on hearing the broadcast that it was a light-hearted look at advertisements that had a resonance for society at that time. The guests' contributions were intended to give perspective on this resonance and the Committee found that they did so in a reasonable and inoffensive manner. There was no evidence of intent to stigmatise or stereotype any group in society in the discussion. The complaint was rejected with regard to 2.2 and 3.4 of the Code of Programme Standards.

[Back to index](#)

**Complaint made by: Mrs. Margaret Fitzsimons**

**Ref. No. 526/09**

Station:

Newstalk 106-108FM

Programme:

The Wide Angle

Date:

11 October 2009

**Complaint Summary:**

Ms. Fitzsimons complaint is submitted under the Broadcasting Act 2009, section 48(1)(b)(harm and offence, the Code of Programme Standards, sections 3.3.3 (inappropriate use of names considered sacred or holy and 3.4.5 undue offence in the treatment of religious views). Ms. Fitzsimons states that the presenter, Karen Coleman prefaced her remarks about the Minister for Health, Mary Harney, with "Hail Mary full of disgrace". Ms. Fitzsimons claims this makes a joke of one of the most precious catholic prayers, the 'Hail Mary' and shows a lack of respect for her religion.

**Station's Response:**

Newstalk 106-108 did not submit a response.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant. The Committee expressed its disappointment with the failure of the station to make a submission to the complaint.



In assessing the complaint, the Committee had to have regard to sections 3.3.3 (inappropriate use of names considered sacred or holy) and 3.4.5 (undue offence in the treatment of religious views) of the Code of Programme Standards. On hearing the broadcast, the Committee noted that the statement complained of was not an expression of the view or opinion of the presenter of the programme, but a newspaper headline which she read out and clearly identified it as such. Under the Code of Programme Standards, the Committee must consider if the use of the statement could reasonably be expected to cause undue offence and this includes considering the context in which it was used, the type of programme, time of broadcast, presentation style and audience expectation. *The Wide Angle* is a current affairs programme. The preceding news bulletin and the introduction by the presenter to the subject of Ministers' expenses provided the context for the reference to the headline. Its use by the presenter was accordingly, linked to a legitimate and topical news story.

At the time of broadcast, a matter of public interest, debate and controversy was the matter of expenses accrued by Ceann Comhairle John O'Donoghue. Details of other Ministers' expenses were also being revealed by the media at that time including those of Minister for Health Mary Harney and this was also a news item on the news bulletin on the programme. The Committee would also note that in a regular feature in current affairs programmes is a review of other media's coverage of a particular story. It was reported in the newspaper article to which the headline belonged that Minister Mary Harney, had spent over €735,000 on travel through her use of the government jet and accommodation costs. Newspaper headlines are intended to be grabbing and the headline in question was used by the presenter in this context – to entice listeners to stay tuned during the break for advertisements. The Committee considered that the reference to and inclusion of the headline was neither unreasonable nor inappropriate in light of the news story under discussion. Accordingly, the complaint was rejected with regard to the Code of Programme Standards.

[Back to index](#)

**Complaint made by: Mr. James O'Brien**

**Ref. No. 527/09**

Station:

Advertisement:

Date:

RTÉ One

Dove Pro-Age Beauty Body Lotion

19 September 2009

#### **Complaint Summary:**

Mr. O'Brien's complaint is submitted under the Broadcasting Act 2001, section 24(2)(e)(General Advertising Codes: section 3.2 offence, harm and human dignity). Under the transitional provisions of the Broadcasting Act 2009, section 177(3) the Compliance Committee is obliged to complete investigations which were commenced but not completed by the Broadcasting Complaints Commission.

The complainant states the advertisement for Dove Pro-Age Beauty Body Lotion shows a naked woman squatting/sitting in a sideways position and this could be considered as the thin edge of the wedge to introducing full frontal nudity.

#### **Advertiser's Response:**



---

Unilever Ireland does not believe that this advertisement is an infringement of public decency and submits that it is in compliance with the General Advertising Code. The context of the advertisement is for body lotion for women over 45. The image has been chosen to illustrate the fact that older women can have luminous skin and feel confident, with the help of Dove Pro Age Beauty products. While the advertisement does feature a naked woman there is nothing sexual or explicit on the way which she is portrayed. At all times during the course of the advertisement, the woman is covering her chest and genitals with her arms and legs. Furthermore, they submit that such use of images of naked skin is very common and characteristic of advertising for skin products, to illustrate the products' use and effect on skin. Unilever Ireland does not believe this advertisement is moving towards introducing full frontal nudity. They also submit that this advertisement is in full compliance with the Advertising Standards Authority of Ireland and all EU and Irish legislation.

**Station's Response:**

RTÉ states that this is an advertisement for a body lotion for older women. It opens with a voice over saying *Who says only young skin can be luminous?* The theme of the advert is a celebration of the beauty of the older woman. In an age obsessed with youth, the message is that the bodies of older women are also beautiful and should be celebrated. The images that accompany the message are of a naked older woman. The viewer sees a beautiful body. The viewer is not used to seeing older women without clothes and the initial reaction is one of surprise. But then as viewers appreciate the beautiful woman on screen they think "why not" and begin to celebrate the beauty of the older woman.

Mr. O'Brien believes the images of the woman are an *infringement of the code of public decency*. RTÉ does not share Mr. O'Brien's view. We see something beautiful. We do not see anything indecent. The woman has her arms and legs draped across her body so the view of her body is quite restricted. Only her face, arms, legs, and back can be seen.

This advertisement was submitted to RTÉ's Copy Clearance Committee (which previews all advertisements prior to broadcast to ensure that they conform to all codes and guidelines). The Committee members believed that the advert was suitable for broadcast at all times other than during children's programming. RTÉ fully agrees with the decision of the Committee. Since it began broadcasting, RTÉ has received no complaints about this advert. The public have a high tolerance of nakedness in adverts if it is justified in the context of the product being promoted. In this instance as the product is skin cream the use of a naked model is legitimate.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant, the advertiser and the broadcaster. The complaint concerns nudity. In assessing this complaint, the Committee had to have regard to the General Advertising Code and in particular, 3.2 offence, harm and human dignity.

The Committee noted that the advertisement was for a body moisturiser. In this regard, the advertisement included a naked woman. The Committee also noted that the view of the woman's naked body was restricted by the way she was sitting. The main message of the advertisement was that moisturising one's skin is not just for younger women, but for older women too. The use of the naked woman was to highlight





---

this fact. The Committee found that such moderate and contextual treatment of nudity could not be considered offensive and/or harmful. There was no evidence of gratuitous content or explicit nudity in the advertisement as submitted by the complainant.

Further, the Committee noted that the broadcaster deemed that the advertisement was suitable for broadcast at all times other than children's programming. Given this scheduling decision coupled with the non-gratuitous and non-explicit content, the complaint was rejected with regard to the General Advertising Codes and in particular, 3.2 offence, harm and human dignity.

[Back to index](#)

**Complaint made by: Mr. Joe Griffin**

**Ref. No. 531/09**

Station:

Spin South West

Programme:

Spin Talk

Date:

12 October 2009

#### **Complaint Summary:**

Mr. Griffin's complaint is submitted under the Broadcasting Act 2009, section 48(1)(a)(fairness, objectivity and impartiality in current affairs). The complainant states that the presenters quite clearly presented a negative bias towards hunting and coursing. Mr. Griffin states it was the ill informed manner in which the presenters continually berated hunting and coursing for which he found grounds for complaint. It is not the fact that he disagrees with the views, but the fact that it was completely unbalanced. It is not representative of views, as the programme purports to be.

#### **Station's Response:**

Spin South West states that following on from the Green Party's discussion of a ban on Stag Shooting as part of the new Programme for Government, the programme was discussing the pros and cons of hunting, under the broad headline "does hunting have a place in today's world". They received a high number of texts and calls throughout the segment of the show. There were 5 callers during the segment and 3 callers were pro hunting and only 2 were of an anti hunting viewpoint. This is an emotional and involving issue which generates a high level of passion on both sides. Spin South West believes that this episode of *Spin Talk* dealt with the issues impartially and fairly and that the piece overall was balanced.

The presenters took opposing views – with Muireann being clearly and passionately anti hunting, while John took a view that it was a normal and necessary part of rural life. It is the nature of a two presenter show that each has more leeway to express a viewpoint as their co-host acts as a natural balance. Great care is taken in the production of the show to provide an overall balance in terms of calls and texts.

#### **Decision of Compliance Committee:**

The Committee considered the broadcast, and the submissions of the complainant and the broadcaster.

The Committee noted that the discussion was about hunting and specifically whether hunting has a place in today's world. The Committee would accept that this may be an emotive subject for many people and



---

one that is likely to draw strong views. What is important to the Committee is that both sides are treated fairly and assertions/claims made on the programme are sufficiently explored and/or challenged in an impartial manner. The wider context for the discussion was a current affairs item - the proposal of the Green Party to ban Stag hunting. The complainant raises an issue with the views expressed by the presenters and their treatment of the subject matter which he believes was unbalanced. Prior to receiving any calls, it was evident from the conversation and banter between the presenters, Muireann and John, that both held opposing views on the subject. Muireann was very clearly anti-hunting, whereas John saw merit in the opposing pro-hunting arguments. While Muireann may, at times, have come across as more passionate and vocal in her standpoint, her opinions were sufficiently challenged by John. The Committee would agree with the broadcaster's submission that John acted as a natural balance.

The Committee also noted that, of the five callers who participated in the discussion live on air, three were pro-hunting. The Committee noted that the callers were permitted sufficient time to air their views and opinions which were sufficiently explored and/or challenged by both presenters, for example, Muireann asked appropriate questions to elicit further information on the pro-hunting views and to generate debate. The callers who were pro-hunting expressed the view that it was a lifestyle, and for some, a hobby or sport. It also served practical purposes such as culling and preventing an overrun of vermin. While the final caller was in principle anti-hunting, she admired the community spirit it brought out. The reasons for a divergence of views was also explored. It was at all times emphasised that it is a choice and the opposing views of the callers may also reflect a cultural difference between the urban and the rural. For example, the second caller noting that it was a source of contention between her, coming from the city, and her boyfriend from the country.

On hearing the entire discussion, the Committee was of the view that the subject matter was treated fairly through a balanced discussion, which was fair to all interests concerned. There was no evidence of unfair treatment of the subject matter as submitted by the complainant.

The complaint was rejected with regard to section 48(1)(a)(fairness, objectivity and impartiality in current affairs) of the Broadcasting Act, 2009.

[Back to index](#)

**Complaint made by: Mrs. X**

**Ref. No. 536/09**

Station:

Programme:

Date:

RTÉ Radio 1

Liveline

7 October 2009

**Note: The issue of anonymity was granted by the Compliance Committee at its meeting on 12 January 2010**

The complainant submitted a request for anonymity. The Committee was of the view that the grounds submitted by the complainant warranted the granting of the request. Therefore, the complainant's name will not be published.

**Complaint Summary:**



---

The complaint is submitted under Section 48(1)(c)(privacy of an individual). The complainant states that she texted into the show, about a letter received by her husband from the Revenue Commissioners, as the topic that day was about people receiving demand letters from the Revenue. The researcher contacted the complainant and asked if she would speak live on the show with Joe Duffy. She agreed to do so only if her name and address and location were not broadcast. The researcher asked for her name and address for their own records but promised not to use them on air. The researcher rang her back at approximately 2:55 and she told her story to Joe Duffy live on air. Later her husband and daughter and several people who knew her began ringing her and her husband about the demand bill from Revenue. The complainant states that her husband was furious about her contact details being read out over the airwaves. The complainant states that releasing her name would not have been too bad but her full address being broadcast has caused severe damage between herself and her husband. The complainant states that this is a very serious matter and *Liveline* needs to be very careful about reading out callers' surnames and addresses. She believes this was a breach of her privacy.

**Station's Response:**

RTÉ states Section 39 (1)(e) states:

*(e) in programmes broadcast by the broadcaster, and in the means employed to make such programmes, the privacy of an individual is not unreasonably encroached upon*

The complainant claims that her privacy was breached in the *Liveline* programme. RTÉ does not accept her claim. One of the subjects under discussion on the programme was Revenue Commissioners' demands for unpaid taxes. The complainant offered to go on air to share her experiences with the Revenue Commissioners with the audience. The complainant was the last contributor to the programme. The programme presenter, Joe Duffy, said *[complainant's name] is in [location]*... The complainant then went on to tell listeners that her husband had received a letter from the Sheriff's Office that unless he paid €73,000 owed in taxation, his goods would be seized.

The production team responsible for *Liveline* dispute the complainant's account. They say that no guarantee of anonymity was given to the complainant. The initial approach to the programme came from the complainant who texted the programme. The researcher who responded to her text message took all of her details and stated; "You don't have to use your real name or say where're you're from". The complainant acknowledged this statement and said "OK" and only asked that her address should not be read out. She made no suggestion that she wanted her name changed. Accordingly, her full name went into her call information which appears on a screen in front of the presenter. Her address also went in but with the message *CONF* attached to it. Unfortunately, her address was read out, this was human error. (The programme has since changed the way in which addresses are entered into the system to avoid future mistakes). The complainant, having heard her name and address being read out by Joe Duffy, went on to discuss her personal situation in detail.

The following day the complainant texted into the programme and the researcher who had spoken to her called her back. The complainant thanked her for calling back and said she just wanted to warn us about



---

broadcasting people's addresses. The researcher said she was sorry that the complainant was upset. Upon receiving that initial complaint the programme removed the pod-cast and the listen-again facility from its web-page. The complainant called the following day and said she "just wanted to say, for future reference" that people's addresses should not be read out.

According to the programme's records the complainant has called the programme several times over the past few years (on issues such as the Eurovision Song Contest, medical cards for elderly, dangerous dogs). Crucially, on one particular occasion, 15 July 2008, she spoke on air on *Liveline* giving her Christian name and stating on air that she "... is self employed, works in construction with her partner. At the minute they are holding on to employees, but by Christmas there will be some that will have to be let go".

Therefore, when the complainant went on the programme on 7 October she had already described her business difficulties in a previous programme the year before with her Christian name identified.

RTÉ apologises to the complainant for reading out her address. This was an error which should not occur again as the production team now no longer place on the screen in front of the presenter an address if it is not to be read out. However, RTÉ does not accept that there was a breach of the complainant's privacy as she was happy to use her full name, she is registered as an occasional caller to the programme and had discussed her business problems on the same programme a year earlier using her Christian name.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns the reading out on-air of the complainant's address. In assessing the broadcast, the Committee had to have regard to section 48(1)(c) which states:

*'in programmes broadcast by a broadcaster, and in the means employed to make such programmes, the privacy of any individual is not unreasonably encroached upon.'*

The Committee would acknowledge the complainant's concern regarding privacy in the context that she had requested such privacy, and was granted such privacy, by the broadcaster prior to going on-air. Nevertheless, on listening to the broadcast, the Committee found that the broadcasting of her location was due to human error. Further, it was an unfortunate error and given the nature of the error, very little could be done to retrieve the situation.

The Committee was also of the view that there was no evidence of intent or malice in the broadcasting of the details; it did appear to be purely a human error. While the broadcaster should have exercised greater care and the error was solely its responsibility, the Committee found that it would not be reasonable to infer that the error led to all the effects detailed in the complainant's submission. While the Committee would acknowledge that the error was unfortunate for the complainant, the effects detailed in her complaint were disproportionate to the error made.



---

The Committee also noted that the broadcaster apologised to the complainant for the error and importantly, has introduced new procedures to ensure such an error does not occur in the future. Given the human nature aspect of the error and the subsequent actions of the broadcaster, the Committee was of the opinion that the complaint was resolved. The Committee would point out that there is an onus on the broadcaster to ensure that it does not err in issues of privacy, and in particular, when dealing with individuals such as those who call the *Liveline* programme. The Committee would ask the broadcaster to ensure programming staff are mindful of this onus at all times.

[Back to index](#)

**Complaint made by: Mr. Noel Kenny**

**Ref. No. 543/09**

Station:

Programme:

Date:

Tipp FM

Tipp Today and News Bulletins

2 October 2009

**Complaint Summary:**

Mr. Kenny's complaint is submitted under the Broadcasting Act 2009, sections 48(1)(a)(fairness, objectivity & impartiality in current affairs, (b) harm & offence, the Code of Programme Standards - section 3.5.2 factual programming) and (c)(unreasonable invasion of the privacy of an individual). Mr. Kenny states this complaint relates to a supposedly unauthorised development at Rosemary Square, Roscrea. Frankly, authorised or unauthorised the discussion is not the subject matter of the complaint other than the coverage failed to take recognisance and infringed the above sections of the Broadcasting Act. The listening public was left in no doubt who the supposed developer was. The interview with Councillor Coonan infringed his privacy and characterised him a 'pariah in society' and an individual that did not fear jail.

The whole interview and reporting relied on hearsay, objectivity and impartiality did not exist.

**Station's Response:**

Tipp FM states this complaint arises from interviews broadcast on their station. The interviews concerned an unauthorised development in the centre of Roscrea. The issue was first mentioned on Tipp FM on August 14, 2009 as a news item. A nearby resident called Tipp FM a full seven weeks later to register her dismay that the building work had not ceased, despite numerous attempts by the planning authority. Tipp FM states that the presenter extended an invitation to the developer to give his or her side of the story. That invitation still stands. The local Fine Gael Cllr. Pauline Coonan subsequently rang the show, which is a listener-led news and current affairs programme. She registered her objection to the developer's actions in the strongest possible manner and while she named Mr. Kenny as the possible owner of the building, the presenter cautioned her that they were not sure as to the developer's identity.

Since this issue was considered by Tipp FM to be of a newsworthy nature, a short news piece was carried in bulletins later that day.

Tipp FM states that the complainant has made no effort to correct or contradict any perceived inaccuracies of the sequence of events at that building site. Tipp FM takes its responsibilities seriously regarding fairness



---

and impartiality. If the developer wishes to refute any of the issues, Tipp FM reiterates that he is more than welcome to do so and they shall certainly give any such material a fair hearing.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns a particular discussion on the *Tipp Today* programme and a particular report in the news bulletins broadcast on Tipp FM on 2 October 2009. In assessing the complaint, the Committee had to have regard to:

- 48(1) (a) fairness, objectivity and impartiality in current affairs  
(b) Code of Programme Standards, 3.5.2, *'factual programming shall not contain material that could reasonably be expected to cause undue distress or offence unless it is editorially justified and in the public interest'*.  
(c) *'in programmes broadcast by the broadcaster, and in the means employed to make such programmes, the privacy of an individual is not unreasonably encroached upon.'*

The Committee noted that the issue of discussion was an alleged unauthorised building being erected in the centre of Roscrea town. The Committee noted that the complainant submits that it is irrelevant whether the building was authorised or unauthorised. The Committee could not agree with this assertion. The issue of planning is a public issue; planning laws are governed by the relevant local authority. In this context, the issue of unauthorised building activity in the centre of Roscrea town was of public interest and a legitimate news story for Tipp FM to broadcast. Further, the application for planning permission is a public process and therefore, the claim by the complainant that the content of the broadcasts was based on hearsay is insufficient argument. The activities around the site would have been plainly evident to anybody in the locality and further, the application for planning, if made, would also have been available.

On hearing the *Tipp Today* programme, the Committee noted that at no stage was the complainant identified as the developer. The lead up to the exchange in which the complainant was referred to, included:

Presenter: ...*'are we over-reacting?'*

Cllr Coonan:...*'It's a huge big structure that dwarfs the houses next door....also behind the Abbey Hall, across from the Church. All those are protected and Roscrea itself has heritage status...'*

Presenter: *'Can you clarify if the developer applied for retention?'*

Cllr Coonan: *'There doesn't seem to be anything on the system....'*

Presenter: *'There is no application of any sort?'*

Cllr Coonan: *'No.....'*

Cllr Coonan: *'I am calling on this gentleman himself or whoever the owner of the property is to have due care for the neighbours, the environment, the heritage.'*

Presenter: *'We know who the owner is.'*

Cllr Coonan: *'Yes they do. Well, it's taking place behind the back of Kenny's, he is an accountant in Roscrea, in Rosemary Street., Roscrea.'*

Presenter: *'But is he the proprietor of it, be careful here now, is he the developer?'*



---

Cllr Coonan: *'That is exactly where the development is and I am asking people to go an look at it.....whoever is building this is a pariah on the community and that is what I would call him'.*

The Committee noted that the complainant has not denied ownership of the land in any of his submissions. On this basis, the Committee assumes he was correctly identified as an owner. The site was referred to in the context of building development, which is a public issue and a legitimate news story. Therefore, the complainant was referred to in a legitimate context.

With regard to the statement by the Councillor which included the word *'pariah'*, the Committee noted that it started with *'whoever'*. It was also used in the context of *'whoever is building this'*. No assertions were made in the course of the broadcast that the complainant was the developer or the builder. He was only ever identified as an owner of the land. Therefore, the issue of his complaint concerning unfair characterisation of him is not valid in the context of the actual broadcast content.

The Committee also noted that the broadcaster offered the complainant the opportunity to go on-air and tell his side of the story if he so wished. That the complainant chooses not to do so cannot determine that there was unfairness and bias in the broadcasts. The discussion and the news reports were based on the construction of a structure in the centre of the town, thereby in public. Such construction requires permission to be sought through a public process. Therefore, it is reasonable to believe that Councillor Noonan's contribution to the discussion was, in the main, based on fact. She did give opinion on the issue, but given the public nature of the issue, such opinion was legitimate. She expressed her concerns for *'the neighbours, the environment, the heritage'*. The reference to *'pariah'*, was in the context of unauthorised building and the flouting of local planning laws. Such issues belong to the community and one could expect political and public opinion to be voiced.

On hearing the broadcasts, the Committee was of the view that the subject matter of the discussion was of public, and human, interest in the locality and that the subject matter was treated in a fair and objective manner at all times. The subject matter was editorially justified and in the public interest. The complainant was only ever identified as an owner. Given that he was an owner, the Committee found that there was no unreasonable invasion of the complainant's privacy. The complaint was rejected with regard to sections 48(1)(a)(fairness, objectivity & impartiality in current affairs, (b) (harm & offence, the Code of Programme Standards - section 3.5.2 factual programming) and (c)(unreasonable invasion of the privacy of an individual).

[Back to index](#)

**Complaint made by: Mrs. Anita Corfe**

**Ref. No. 548/09**

Station:

RTÉ One

Programme:

The Late Late Show

Date:

23 October 2009

**Complaint Summary:**

Mrs. Corfe's complaint is submitted under the Broadcasting Act 2009 section 48(1)(b)(Code of Programme Standards: harm and offence: sections 2.2 due care and 3.4.3 stigmatising people with a





---

disability). The complainant claims that Mr. Tubridy, when interviewing his guest, referred to his mental health distress in a disparaging, disrespectful and stigmatising manner. When his guest shared his experience of struggling and overcoming alcohol addiction, Mr. Tubridy said 'when you were a basket case'. Mrs. Corfe found this referral to be profoundly disrespectful and totally unacceptable.

Mrs. Corfe also refers to an interview with singer, Daniel O'Donnell. She believes Mr. Tubridy's used very cheap innuendo when interviewing Mr. O'Donnell. Mr. O'Donnell stated that he had not liked birds previously and Mr. Tubridy reaction was to use his body language (smirk and raised eyebrows) and a long pause as a cheap attempt to extract some 'hidden meaning' from what the guest was sharing with the audience. Mrs. Corfe states that this made for uncomfortable viewing and Mr. O'Donnell reflected his discomfort back to Mr Tubridy. Mr. O'Donnell's in situ response to the crassness made the viewing less tortuous.

#### **Station's Response:**

RTÉ states the following:

##### **1. A Discussion about Alcoholism**

This was a serious discussion about the impact alcoholism has on people's lives and their struggle to overcome their addiction. It was chaired in a responsible manner by the programme presenter Ryan Tubridy. There was nothing *disparaging, disrespectful or stigmatising* about the presenter's approach to the subject or the participants in the discussion. RTÉ does not accept that Mrs. Corfe's perception of the attitude of the presenter is valid and that a viewing of the item will indicate a responsible attitude was taken by Mr. Ryan. The particular remark that has caused Mrs. Corfe to complain occurred at the beginning of the item when a studio contributor, Brian, was explaining how he began drinking heavily.

Ryan Tubridy asked him "When did you realise that you were a basket case?" Out of context this may appear as an insensitive question, but RTÉ is confident that if the item is viewed it will be seen that the question was not insensitive and that Brian simply accepted it as part of the questioning of his discovery of his alcohol addiction.

##### **2. An interview with Daniel O'Donnell**

During the course of an interview with the singer Daniel O'Donnell a reference was made to a canary that Mr. O'Donnell's wife had given him. Mr. O'Donnell made a joke about not liking *birds of the feathered variety*. The audience laughed, Mr. O'Donnell accepted the humour of the joke and played along. Ryan Tubridy's role in the joke was absolutely minimal. Mrs. Corfe's perception of the joke cannot be explained by any objective viewing of the interview. No one was crass or discomforted.

#### **Decision of Committee**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns two particular comments made in the course of two discussions on the *Late Late Show* broadcast on 23 October 2009. In assessing this complaint, the Committee had to have regard to the Code of Programme Standards and in particular, sections 2.2 due care and 3.4.3 stigmatising people with a disability.



---

The first discussion was about alcoholism and the panel consisted of three members; two recovering alcoholics and a doctor. The Committee noted that the discussion with the two recovering alcoholics was very personal, and both men openly discussed their lives as it was when they were alcoholics. It was evident that the programme-makers had spoken to both men prior to the broadcast and were aware of the main issues both men would address in the course of the broadcast.

The first interviewee Brian spoke of his addiction with candour. The opening of the discussion with Brian included:

*Brian: '....I began to rely on alcohol. It became a big issue in my life'.*

*Presenter: 'When did you go from I'm drinking a lot, I'm drinking heavily, I'm an alcoholic; when did you feel now I am a basket-case?'*

*Brian: 'I think you know yourself when you have this inner torment in your mind. And instinctively you know that the game is up when you are beat psychologically, when you're beat emotionally and when you're financially beat. You realise it when you have distant yourself from your family and your friends. You realise it when you just look at yourself in the mirror and you see your life and you know that you have the potential to have a better life than that.....'*

On viewing the broadcast, it was evident to the Committee the interviewee understood the question posed to him by the presenter. His response clearly articulated that he lost his way and that all aspects of his life suffered. There was no evidence that the interviewee found the question to be offensive or disrespectful. Further, the manner and tone in which the question was asked was reasonable and respectful. It was asked to elicit information from Brian about the time he realised he was an alcoholic, out of control of his life. This was a reasonable context in which to use the term 'basket-case'. This discussion was of public and human interest and was handled in a responsible and respectful manner at all times. There was no evidence of any content which could be considered to cause undue offence and/or stigmatise people with a disability as submitted by the complainant.

The second discussion was with the singer Daniel O'Donnell. It was evident from the outset that the discussion would at times include banter and the reference to 'birds' was in such a context. On viewing the broadcast, the Committee noted that the reactions of the presenter, the interviewee and the audience was that they all had found the innuendo about the 'birds' somewhat funny. The Committee was also of the view that such innuendo was harmless. The Committee would acknowledge that the humour may not have appealed to all tastes, but it was innocuous in nature and highly unlikely to cause widespread undue distress or offence.

The Committee was of the opinion that there was insufficient substance to the issues as raised by the complainant evident in the broadcast. The complaint was rejected with regard to the Code of Programme Standards and in particular, sections 2.2 due care and 3.4.3 stigmatising people with a disability.

[Back to index](#)



---

**Complaint made by: Mr. Patrick Mohally****Ref. No. 549/09**Station:RTÉ 2Programme:Podge & RodgeDate:20 October 2009**Complaint Summary:**

Mr. Mohally's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b)(harm & offence, the Code of Programme Standards - sections 2.2 due care and 3.4.1. persons and groups in society). The complainant states that during this show two of the guests sang a song about Susan Boyle who became well known in 2009 as a result of a talent competition on television in Britain. Mr. Mohally claims that the words referred to her in a derogatory and demeaning way. Several references were made to her facial hair. This was unwarranted and gratuitously insulting and showed a complete lack of decency towards another human being.

**Station's Response:**

RTÉ states that the characters Podge and Rodge are familiar to most viewers. They are puppets who play the part of misogynistic vulgar bachelors who engage in banter with their guests in their home *Ballydung Manor*. This year, the two characters have opened a pub called the *Stickit Inn* where they run a weekly quiz between two teams of contestants. The team that wins gets a prize of a tin of biscuits; the losing team has to play a forfeit. On 20 October the forfeit was that the losing team, Dáithí Ó Sé and Amanda Bruncker, had to undertake a karaoke song based on the singer Susan Boyle. The programme ended with the two losing contestants singing that song as the closing credits rolled. As with all karaoke, the words of the song were scrolled across the screen. Mr. Mohally believes the song included references to Ms. Boyle.

RTÉ fully accepts that Podge and Rodge characters engage in a form of banter that could be regarded as offensive by some viewers. In this particular instance, the losing contestants are forced to engage in karaoke where the words they have to sing reflect the personalities of the two puppets. In RTÉ's view, regular viewers of Podge and Rodge have an expectation of banter which, if taken literally, could be regarded as offensive, but the banter is understood as part of the fictional world of two highly eccentric puppets. The whole premise of the programme is that viewers are entering a fictional world and that the standards that apply are not those of the real world. In this make-believe world, there are *victims* who are the subject of abusive banter, but offence is not taken as everyone shares in the conspiracy that the two puppets are real bar owners and masters of ceremony at a table quiz.

RTÉ points out that there have been 10 complaints about Podge and Rodge to the Broadcasting Complaints Commission since the beginning of 2006 and that none of these complaints have been upheld. What this record suggests is that there is an acceptance that the utterances of the two puppets are not meant to be taken literally and that any assessment of standards is based on the understanding that the audience is aware that what they are viewing is the boisterous make-believe of a fictional world.

**Decision of Compliance Committee:**



---

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The Committee noted that the complaint concerned certain statements about the singer Susan Boyle in the programme, both by the puppet presenters and in lyrics to a karaoke performance. Under the Code of Programme Standards, the Committee must consider if the use of the words could reasonably be expected to cause undue offence and this includes considering the context in which they were used, the type of programme, time of broadcast, presentation style and audience expectation. The Committee noted that the show is scheduled in the late-night schedule on RTÉ Two. The regular audience would be familiar with the regular features of the programme and the sense of humour of the puppets. Often the banter between the puppets contains what some would regard as offensive and puerile material. While the Committee would accept that, at times the behaviour, subject matters and/or language used by the presenters, could be considered by viewers as offensive, crude and coarse, this is the nature of the programme and regular viewers would expect such material.

The Committee would accept that making fun of a person's appearance would be considered by many to be offensive, unfair and of questionable taste. Overall, the Committee considered the material to be borderline of what is acceptable under the Code. However, given the nature of the programme, the broadcaster's mature adult classification, time of broadcast and audience expectation, the complaint was rejected with regard to sections 2.2 and 3.4.1 of the Code of Programme Standards.

[Back to index](#)

**Complaint made by: Mr. Michael Grant**

**Ref. No. 557/09**

Station:

RTÉ 2FM

Programme:

The Gerry Ryan Show

Date:

23 October 2009

**Complaint Summary:**

Mr. Grant's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b)(harm and offence, the Code of Programme Standards - sections 2.2 due care, 2.3 protection for children, 3.2 sexual conduct and 3.3 coarse and offensive language). The complainant states that the programme featured coarse and sexually explicit language explaining how to put on a condom and describing how the semen can come up the shaft of the penis. Gerry Ryan referred to sperm as resilient little buggers. He also used the word riding around the village. Mr. Grant states that he initially did not realise this was the programme his 8 year old was listening to at 11a.m. He did not expect this type of content in a programme broadcast early in the day. He finds it appalling that RTÉ would sink to what he describes as gutter standards.

**Station's Response:**

RTÉ states that to mark the occasion of the 40<sup>th</sup> anniversary of the founding of the Irish Family Planning Association (IFPA), the *Gerry Ryan Show* interviewed Dr. Caitríona Henchion, medical director of the IFPA. During the course of a lengthy interview the programme presenter talked to Dr. Henchion on a range of topics including education in sexual matters, sexually transmitted diseases (STDs) and methods of avoiding STDs. Part of the discussion dealt with the efficient method of putting on a condom. The complainant believes the discussion was *coarse and sexually explicit* and was a breach of the Code of Programme Standards in regard to harm and offence.



---

RTÉ believes that most listeners to the programme would not have found the discussion offensive. It was sexually explicit because it was dealing with sexually explicit matters. Most listeners would accept that there is nothing wrong with the language used in the programme provided it is used in an appropriate context. Mr. Grant says his eight year old son was listening to the discussion. RTÉ regrets that Mr. Grant's son heard the discussion but would make two points. The discussion took place at a time when the vast majority of children would be in school (10:30-11:40 on a Friday) and any parent listening to the introduction to the discussion would have known that the subject matter was unlikely to be of interest to or appropriate for an eight year old.

*The Gerry Ryan Show* is targeted at an adult audience and regular listeners would be familiar with the fact that he often discusses topics which are not suitable for children.

Mr. Grant concludes his complaint by stating that he *finds it appalling that RTÉ should sink to such gutter standards*. RTÉ does not accept his view that the programme standards were low. Rather RTÉ believes the programme provided some service to its listeners in the clear and unambiguous advice that was given out in regard to contraception and the avoidance of STDs.

**Decision of Compliance Committee:**

The Committee considered the broadcast, and the submissions of the complainant and the broadcaster. The Committee noted the complaint concerned an interview between Gerry Ryan and his guest in the studio, Ms. Catriona Henchion, Medical Director of the Irish Family Planning Association. In assessing the complaint the Committee had to have regard to the Code of Programme Standards sections 2.2 (due care), 2.3 (protection for children) and 3.2 (sexual conduct) and 3.3 (coarse and offensive language).

The Committee noted that the opening of the interview by the presenter set the context for the subsequent discussion:-

*'The Irish Family Planning Association is 40 years old this year..... since its foundation the IFPA has been to the fore in setting the agenda for both sexual and reproductive health and indeed rights surrounding these issues in Ireland.'*

The presenter then introduced his guest Catriona Henchion, Medical Director of the IFPA. The Committee was satisfied that the listener would have, at that point, been put on notice that the interview would include discussion of sexual and reproductive health matters which could also expectedly cover matters such as contraception and sexual education. The presenter immediately began the interview on the topic of contraception. The Committee considered it reasonable that the listener would, thereafter, expect a frank and open discussion about methods of contraception, side effects and effectiveness of such methods and related issues such as sexual education and sexually transmitted diseases. The interviewee also provided information on the practical experience of the IFPA and referenced the findings of other research in dealing with the issues discussed. The discussion also attempted to answer frequently asked questions about the issues as posed by the presenter and also by listeners communicating via texts. Overall, therefore, the Committee found the discussion to be factual, informative and educational.



Further, the Committee was of the view some of the issues under discussion would, by necessity, involve the use of sexually descriptive, for example when the contributor explains to the presenter how to use a condom correctly and some of the implications of not doing so. In this context, the use of sexual language was justified editorially. The complainant raises an issue with particular phrases/words used by the presenter during this segment of the programme: 'semen can come up the shaft of the penis'; 'resilient little buggers' and 'riding around'. In relation to the first, the Committee noted that this was used when the contributor was explaining the implications of not using a condom properly. The Committee was satisfied that this was a factual description and could not, in the context in which it was used, be considered as coarse or offensive. The second term was a comment made by the presenter in relation to sperm in the same context. Under the Code of Programme Standards, the Committee must consider if the use of the words/terms could reasonably be expected to cause undue offence and this includes considering the context in which it was used, the type of programme, time of broadcast, presentation style and audience expectation. The Committee would accept that the programme is aimed at an adult audience at that time in the morning and the regular listener would be familiar with the irreverent style and colloquial, vernacular language of presenter. The Committee also noted that the words/verbs 'bugger' and 'riding' did not feature as words with potential to cause offence according to the research conducted by the BCI when developing the Code of Programme Standards. The Committee would accept that the words/verbs may be used offensively and/or considered coarse in certain circumstances, however, in this instance they were used by the presenter in their colloquial senses and without intention to create offence. The meaning a listener would take from the words in the context in which they were used was not inappropriate given the matter under discussion i.e. contraception. However, the overall tone remained serious to the matter under discussion; the importance of using a condom properly. Given the context, tone, and style of the presenter and programme, the Committee considered that the statements/comments were not intended to, and were unlikely, to cause widespread offence in this instance. The Committee also noted that the statements of the presenter occurred about 20 minutes into the interview by which time listeners would have been sufficiently informed of the topics being discussed and of the likelihood of the use of sexually descriptive language.

The Committee noted that at the time of the broadcast, children of school-going age would be expected to be at school as the date of broadcast did not fall on a school holiday. In the event that children were at home, adults would have been put on notice of the adult nature of the discussion following the opening and introduction to the discussion by the presenter. The Committee also agreed with the broadcaster's submission that the show is targeted at an adult audience and regular listeners would be aware that the show discusses topics of an adult nature which are not suitable for children. The complaint was rejected with regard to the Code of Programme Standards - sections 2.2 due care, 2.3 protection for children, 3.2 sexual conduct and 3.3 coarse and offensive language.

[Back to index](#)

**Complaint made by: Mr. Anthony Halpin**

**Ref. No. 559/09**

Station:

RTÉ 1

Programme:

What in the World

Date:

1 November 2009





---

**Complaint Summary:**

Mr. Halpin's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b)(harm & offence, the Code of Programme Standards - sections 2.2 due care, 2.4 assessment and 3.5.1 factual programming). The complainant queries why RTÉ finds it acceptable to show a young girl in frontal nudity in an extended camera shot in this programme. Mr. Halpin claims that RTÉ seems to do this in programmes pertaining to Africa. He further queries whether RTÉ see African children as human and if it would show white children in this manner. Later in the programme, Mr. Halpin claims the viewers were treated to the slaughter of a baby goat. The programme showed someone grabbing a goat with one hand and wielding a machete with the other.

Mr. Halpin states that no warning was given regarding the contents of the programme. Furthermore, notwithstanding the fact that no adult finds this interesting, it is extremely upsetting to younger audiences that are most likely to be tuned in at 11 a.m. on a Sunday.

**Station's Response:**

RTÉ states that in the programme there were images of the Turkunan and Pokot people who lead nomadic lives in Kenya. The young children of these peoples do not always wear clothes. RTÉ can see absolutely nothing wrong with showing these images. Mr. Halpin describes these images as *extended camera shots* as if the director deliberately dwelt on these children's bodies. RTÉ states that this is just nonsense. What the viewer saw was images of nomadic families going about their daily lives. There was no reason whatsoever to avoid showing these images. RTÉ states that Mr. Halpin's objections do not take account of the cultural values of the people featured in the programme. It is RTÉ's view that viewers watching a programme on nomadic people in Africa would have an expectation that they might see naked children and would not be in the least offended.

With reference to Mr. Halpin's objection to seeing a goat being killed as part of the preparation for a meal, RTÉ can see nothing wrong with this image being broadcast. It is not RTÉ's function to sanitise images to avoid upsetting the sensibilities of viewers such as Mr. Halpin. His response is not typical of viewers of the programmes featuring tribal people living in Africa.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns two particular visual shots in the broadcast. In assessing the complaint, the Committee had to consider the two particular visual shots in the context of the entire broadcast. The Committee noted the opening sequence of the programme. The viewer was informed that that *'Turkwell Gorge Dam was commissioned in 1991. Described as the whitest of white elephants, a stinking scandal and the richest, dirtiest deal in Kenya's history,.....it was constructed without consulting either the Pokot or Turkana peoples'* and the programme would explore the *'impact of the dam on the local peoples'*. Images of the local area and the peoples, who were clearly tribes people, were shown. In the subsequent broadcast, the programme-makers explored the impact of the dam through following the daily lives of the two nomadic tribes. This included following them as they completed daily chores, rituals and also, interviews with members of both tribes. While the Commission would acknowledge that there were a few shots which included naked children, such shots had to be considered in context.





---

The programme depicted the daily lives of the two tribes. It is natural for the children of such tribes to not wear clothes. The broadcast reflected this fact in a reasonable and non-gratuitous manner. The children were incidental to the content; they were seen playing or standing around the village as the programme makers tried to capture tribal daily life. There was no evidence of an 'extended' shot as submitted by the complainant. When viewed in context, the content was both natural and real; it reflected the lives of the tribes people as they lived it. The Committee found that the content was at all times responsible and respectful.

With regard to the killing of the goat, the Committee noted that there were no visuals of the slaughter shown and further, there was no gratuitous content. The images of the goat were accompanied with the voice-over explaining the purpose of the killing to the viewer. This included reference to the initiation ceremony for teenagers and further, that the goat also provides an important source of food. This programme sought to reflect the real life events of the two tribes and in such a context, one could expect that the rituals and sources of food of both tribes could be covered in the broadcast. In the opinion of the Committee, the programme addressed this issue in a responsible manner.

The Committee was of the view that it would not be reasonable to infer, given the context and responsible treatment of the subject matter, that the broadcast would cause undue offence or undue harm. The content of the programme was editorially justified. It was also responsible and considerate at all times. There was no evidence of content which could reasonably be deemed to prejudice respect for human dignity as submitted by the complainant. Further, there was no gratuitous or harmful content. This was an educational programme, which dealt in a responsible manner with an issue of corruption for progress sake, but to the detriment of the local tribes. The content was suitable for broadcast as scheduled.

The Committee was of the opinion that there was insufficient substance to the issues as raised by the complainant evident in the broadcast. The complaint was rejected with regard to the Code of Programme Standards and in particular, sections 2.2 due care, 2.4 assessment and 3.5.1 factual programming.

[Back to index](#)

**Complaint made by: Mr. James Clarke**

**Ref. No. 574/09**

Station:

Programme:

Date:

RTE One

The Late Late Show

6 November 2009

**Complaint Summary:**

Mr. Clarke's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b)(harm & offence, the Code of Programme Standards - sections 2,1 general community standards, 2.2 due care, 3.3.3 inappropriate use of names considered holy and 3.4.5 treatment of religious views). Mr. Tubridy had a guest on named Dara Ó Briain. The comments made by Mr. Ó Briain were blasphemous, insulting and showed his clear lack of knowledge. Neither Ryan Tubridy nor Dara Ó Briain seemed to understand what the statement "*Be on your guard*" really means.



---

The comments made by Mr. Ó Briain were with regards to the tree stump in Limerick and Our Lady. Without truly knowing what this tree stump is all about, this funny man thought he would get a laugh by mocking it and telling people on live television that it was utter nonsense, thus RTÉ and Mr. Tubridy were leading people astray.

He states if the faithful of Ireland want to pray at a tree stump and it helps them prepare for the much prophesised and talked about Second Coming, then so be it. The comments made about this stump without them knowing its importance to Ireland and World History was similar to someone saying the Mount of Olives is just a silly hill or the Garden of Gethsemane is just a silly old park. The complainant queries if Dara Ó Briain would have the courage to mock the Jews or Muslims?

By appearing in the tree stump, Our Lady is clearly showing she is an integral part of The Tree of Life and earns the title CoRedemptrix, Mediatrix and Advocate by being the Second Coming of the son to us all which is happening in Ireland right under the noses of Mr. Tubridy and Dara Ó Briain, both of whom suffer with Spiritual Blindness which should be cured fairly rapidly. The tree stump also plays a major role in the Sainthood for Pope John Paul II.

**Station's Response:**

RTÉ states Mr. Clarke's complaint refers to one reference in the interview. Mr. Ó Briain was telling the presenter that he had recently been filming for a BBC television series *Three Men in a Boat* and that it had featured a trip along the canals and rivers of Ireland. He explained how he wanted a good impression of Ireland to be given in the series and that they had been blessed with good weather. However, his two companions, picking up on claims of apparitions, were keen to visit Rathkeale in County Limerick where it was claimed an image of Our Lady could be discerned in a tree stump. Mr. Ó Briain said

*I kept trying to steer us away from things ... like they kept on wanting to go to Rathkeale, do you know what's in Rathkeale? The Holy Stump, the bit of a tree. I can say this now ... It's a tree. It could look like anything, a bun in a tree. It looks like isobars ... I had to keep steering them away from this.*

It is this reference to Rathkeale that has led to Mr. Clarke's complaint.

This year has seen claims of new apparitions in Knock Co. Mayo, Rathkeale, Co. Limerick and Navan, Co. Meath. In all cases, the vast majority of people have been disdainful of the claims. In all cases the Church authorities have done all in their power to dissuade their followers from believing in such apparitions. Dara Ó Briain in his slight reference to Rathkeale was simply poking a little fun at those who believed the Mother of God was visible in a tree stump. But more than that he was expressing his desire that a BBC programme he was working on did not travel to Rathkeale to publicise and mock those people who believed they were witnessing the physical manifestation of the Mother of God in a tree trunk.

Taking the grounds of complaint in turn:

**General Community Standards**



---

RTÉ does not accept that the joke offended *against commonly held standards considered acceptable in contemporary Irish society*. Most people in Ireland today would be highly sceptical of claims of apparitions and would find nothing wrong in such claims being satirised or treated as suitable subject matter for jokes.

### **Due Care**

RTÉ has no reason to believe that any viewer other than Mr. Clarke took offence at the joke about Rathkeale. An offence taken by one viewer can hardly be sufficient to uphold a claim of breach of the Code of Programme Standards. If upsetting one viewer was sufficient to uphold a complaint many programmes would regularly find themselves in breach. There is also a reference to harm in this section. No one was harmed by this gentle and unmalicious joke.

### **Coarse and Offensive Language**

There was no coarse or offensive language in Mr. Ó Briain's interview. Mr. Ó Briain did use the word *shite* in an earlier joke in his interview. RTÉ regards this word as acceptable as it is widely used in contemporary society without giving offence.

### **Undue Offence in the Treatment of Religious Views**

RTÉ does not accept that being sceptical and irreverent about people's claims of seeing apparitions is offensive to people's religious views. Church authorities are highly sceptical of such claims and regard them as superstitious. In other words, Church authorities do not claim that such beliefs are actually *religious views* at all. Additionally, even if one were to accept that belief in apparitions can be described as a *religious view* such holders of these beliefs have to accept that religion can quite legitimately be the subject of humour as comedians take everyday life as the material for their comedy.

### **Decision of Commission:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns a reference made by a guest during the show regarding a tree stump that some people believe depicts Our Lady. In assessing this complaint, the Committee had to have regard to the entire discussion. The Committee also had to have regard to the Code of Programme Standards, in particular sections 2.1 community held standards, 2.2 due care, 3.3 coarse and offensive language and 3.4.5 persons and groups in society.

The Committee noted that the interview in question was with the well-known comedian Dara Ó Briain. The discussion included Mr. Ó Briain describing some of the differences he has experienced between Irish and English societies and his experiences on the series *Three Men in a Boat*, in which he is a participant. As one would expect, Mr. Ó Briain's contribution was humorous and peppered with his own observations on life as he saw it. This included informing the viewers that filming the series *Three Men in a Boat* in Ireland had proved very difficult for him, as he spent a lot of time trying to hide some of the nuances of Ireland from the other two participants, both English. He felt defensive about 'his' country and also, *'he could feel four million Irish people, just their breath on the back of my neck, just saying, don't say anything rude you're in Ireland. It was just like you're representing us out here, don't do the place down'*. He did not want the other two to be *'slagging the Irish'*.



In this context, he referred to Rathkeale, *'they kept wanting to go....And do you know what is in RathKeale? The blessed stump, a bit of a tree.....'*. On hearing the comments, it was evident that the comedian was expressing his scepticism in a humorous and gentle manner. It is widely accepted that facets of society can be, and regularly are, subject to scrutiny through humour. While such humour may not appeal to all tastes, the Committee must respect the right to freedom of expression.

With regard to the issue of general community standards, the Committee noted that the issue of apparitions is not one that is accepted widely in society. The Committee must also acknowledge the scepticism that surrounds apparitions and this includes the Church Authorities. With regard to due care, on viewing the broadcast, the Committee could not determine that there was any content which was unduly offensive or harmful. Mr. Ó Briain's views about the tree stump were legitimate and he was perfectly entitled to hold and express such views. What is important to the Committee is that he did so in a moderate and acceptable manner. The Committee was of the view that he did express his views in such a moderate and acceptable manner.

With regard to coarse and offensive language and the religious views of persons and groups in society, the Committee found that the humorous content of the programme was reasonable and within acceptable standards. As religion is a facet of Irish society, one could expect that associated issues could be targeted and subjected to humour. The Code of Programme Standards acknowledges this fact and while it requires broadcasters to *'take measures to prevent undue offence in the treatment of religious views, beliefs or images during programme material'* it also states, *'this is not intended to prevent critical scrutiny of religion'*. The moderate manner in which the comedian expressed his views about an apparition, were within the requirements of the Code.

The complaint was rejected with regard to the Code of Programme Standards, sections 2.1 general community standards, 2.2 due care, 3.3.3 coarse & offensive language and 3.4.5 persons & groups in society.

[Back to index](#)

**Complaint made by: Mr. Shane Hogan**

**Ref. No. 583/09**

Station:

Programme:

Date:

TV3

The Apprentice

16 November 2009

#### **Complaint Summary:**

Mr. Hogan's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b)(harm & offence, the Code of Programme Standards - section 3.8 imitative behaviour). Mr. Hogan states that in this episode the programme participants were being ferried around Dublin in people-carrier vehicles (Renault Espace) without seatbelts. He states that this is a very dangerous practice and gives a very bad example. Mr. Hogan contacted the Renault dealership and received confirmation that all seven seats in the Espace were fitted with full 3 point seat belts and not lap-belts.



---

**Station's Response:**

TV3 have investigated the matter and would reply as follows:

1. All contestants were made aware of the need to wear seatbelts within the people carriers.
2. The vehicles were fitted with lap belts, which the contestant did use.
3. The contestants were made explicitly aware of this requirement on a number of occasions.
4. It will be noted that the contestants travel with their back to the driver which TV3 has been informed is the safer way to travel. Please note that under law, where individuals are over 18, it is their responsibility to wear seatbelts and they must take responsibility for their own actions.
5. In the context of the BAI Programme Codes, it should be noted that this is a programme intended for an adult audience who will, themselves, be aware of the legal position and safety value in respect of seat belts.
6. It will be clear from the above that TV3 and the Production crew took all necessary steps to ensure that the participants on the series were transported in a manner in accordance with the law.

**Decision of Compliance Committee:**

The Committee considered the broadcast, the written submissions of the complainant and the broadcaster. On watching the broadcast, the Committee noted that there are various camera scenes of the contestants sitting in cars; in some, the car was static and in others, the car was moving. Some of the contestants were, on occasion, not wearing seatbelts when the car was moving. Noting that the seatbelts were worn in some scenes, there was no evidence of a deliberate decision by the contestants not to wear seatbelts at all; rather, it appeared to the Committee to be an oversight on the part of some of the contestants. The Committee was of the opinion that this would be evident to viewers who noticed the absence of seatbelts in only some of the scenes and not by the same contestants in all cases. For example, in one scene Brefny and Geraldine are not wearing seatbelts, however, when the viewer next sees them in the car they are.

The Committee would accept the broadcaster's submission that the contestants were adults and were aware of the legal obligation and responsibility to wear seatbelts. Further, the programme was scheduled at 10pm at night and was clearly targeted at an adult audience. Such audience, being aware of the law and their obligation to adhere to it in all respects, would be expected to know not to imitate an illegal and/or dangerous act shown in a programme. The complaint was rejected with regard to of the Code of Programme Standards, section 3.8.

[Back to index](#)

**Complaint made by: Mr. James O'Brien**

**Ref. No. 584/09**

Station:  
RTÉ One

Advertisement:  
Curries Electrical

Date:  
5&6 November 2009



---

**Complaint Summary:**

Mr. O'Brien's complaint is submitted under the Broadcasting Act 2009, section 24(2)(e)(General Advertising Codes: section 3.2 offence, harm and human dignity). He states the advertisement for Curries Electrical shows a man and a woman without clothes, holding a sale sign to cover their private parts.

Mr. O'Brien believes this advert could be considered as the thin edge of the wedge to introducing full frontal nudity.

Having travelled throughout Europe on an ongoing basis, Mr. O'Brien's experience is that these types of semi-nude adverts are used to condition the public into accepting full nudity. As is the case now across France.

**Advertiser's Response:**

Rothco would like to apologise if Mr. O'Brien found the advert offensive. It was never the intention to insult or offend the public. It was simply based on a concept for Currys with their customers in mind, wanting to take everything off their prices, while visualising this with an arresting image of a semi-clad workforce. Knowing it was impossible to take everything off, Currys settled for 50% off their prices in stores instead.

It was simply a creative concept to portray a Currys sale in an engaging way. It was by no means conditioning the general public into accepting full nudity in adverts, as suggested by Mr. O'Brien.

**Station's Response:**

RTÉ states that the advert features images from a Curry store where all the sales staff are naked. However, the viewer doesn't see any staff member in their full nudity as there are strategically placed objects in the way.

The advert opens with a steam iron in the foreground masking a naked staff member, he walks through the shop, his dignity is maintained as a washing machine door is opened. The next image is of a naked staff member standing behind a display of television sets, next we see a female staff member walking towards the camera carrying two kettles covering her breasts. Voice over comes in at this stage saying "If we could we'd take everything off, but for now we're taking up to 50% off in our sale". This is followed by another naked sales assistant demonstrating a camera to a customer. He has a jug kettle covering his torso. The ad ends with a final naked salesman holding a large sign over his waist with "Final reductions" written on the sign, he whips this away to reveal a smaller sign with "Sale ends Wednesday" on it.

This advert was submitted to RTÉ's Copy Clearance Committee (which previews all advertisements prior to broadcast to ensure that they conform to all codes and guidelines). The committee members believed that the advert was suitable for broadcast at all times other than during the Den. RTÉ fully agrees with the decision of the committee.



---

In RTÉ's view most of the audience will see the advert as a joke, the incongruity of naked sales staff demonstrating their products in a store is visually arresting. However, decency is maintained by the careful and unlikely juxtaposition of electrical goods. There is an obvious play between the narrator's desire to take everything off with the reduction in prices being offered. It is an audio-visual pun that won't be lost on the audience.

Mr. O'Brien believes this advert is designed to condition the public into accepting full nudity in advertising. RTÉ cannot accept this, this advert is simply a light-hearted and innocent play on nakedness, taking off prices and taking off clothes.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the written submissions of the complainant, the advertiser and the broadcaster. The complaint concerns nudity. In assessing this complaint, the Committee had to have regard to the General Advertising Code and in particular, 3.2 offence, harm and human dignity.

The Committee noted that the advertisement was informing viewers of a sale in Currys Electrical store. The advertisement portrayed naked sales staff in the shop. The Committee noted that the advertisement did not contain full nudity as the full view of the staff members' naked bodies were restricted at all times by various electrical goods and/or sales placards. Accordingly, the Committee would accept that decency is maintained throughout the advertisement.

The Committee noted that the purpose of the advertisement is to promote, to an adult audience, the sale at the store where goods can be purchased at 50% of their original price. The Committee was of the opinion that viewers would acknowledge the intended play between taking a significant percentage off prices and taking clothes off. Further, viewers would accept that intention was to portray semi-nudity in an inoffensive, humorous and innovative way in the context of promoting the sale. In this context, the Committee found that the treatment of nudity could not be considered offensive and/or harmful. There was no evidence of gratuitous content or explicit nudity in the advertisement.

Further, the Committee noted that the broadcaster deemed that the advertisement was suitable for broadcast at all times other than children's programming. Given this scheduling decision coupled with the non-gratuitous content, the complaint was rejected with regard to the General Advertising Codes and in particular, 3.2 offence, harm and human dignity.

[Back to index](#)

---

**Complaint made by: Ms. Sharon Horkan**

**Ref. No. 590/09**

Station:

RTÉ Two

Programme:

Savage Eye

Date:

23 November 2009

**Complaint Summary:**





---

Ms. Horkan's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b) (harm & offence, the Code of Programme Standards, sections 2.2 due care, 3.3.1 coarse & offensive language). Ms. Horkan states that the content of the programme was offensive with excessive use of bad language, inappropriate scenes depicting children sitting on the laps of priests and unnecessary homophobic references.

**Station's Response:**

RTÉ states that *The Savage Eye* is a satirical comedy series that holds up to scrutiny the sense of self-importance found in certain sections of Irish society. Inevitably, it is going to offend some people as it ridicules and mocks the values and behaviour of some people. Good comedy often performs a valuable function in society by examining through humour values and attitudes which are frequently based on little more than self-delusion.

The programme is broadcast in a recognised comedy slot on RTÉ Two. It is transmitted at 10.30pm, an hour and a half after the beginning of the watershed. Viewers would be likely to anticipate the nature of the programme and, if likely to be offended, would be advised to avoid watching the programme. To assist viewers in making a judgment as to whether or not the programme is suitable viewing it is given a MA (Mature Audience) classification. In addition, this episode was introduced with the following presentation announcement

*... a biting satirical look at Irish life, not for the sensitive... be prepared to be scandalised ... at the outrageous world of The Savage Eye.*

In RTÉ's view, the programme fulfilled all requirements in regard to Content Principles in that it was broadcast late at night on a channel with a reputation for satirical comedy, it was given a MA classification and there was an unambiguous presentation announcement about the nature of the programme.

RTÉ is aware that some viewers might find the contents and presentation of the programme offensive. However, they believe that RTÉ should develop and promote *alternative* comedy and that if such programming offends a section of the audience, RTÉ can minimise that offence by the scheduling of the programme and by providing viewers with clear information about the programme contents.

RTÉ accepts that the programme contained a number of expletives, mostly used by characters to express their anger and inadequacy. RTÉ believes these were editorially justified as part of the depiction of the characters being portrayed and were not in excess of what the audience might expect in a satire programme broadcast at 10.30pm. In the context of the revelations about clerical abuse of children, RTÉ believes these images were acceptable within a satirical comedy programme that was examining contemporary values and attitudes. There was only the slightest reference to homosexuality in the programme, two gay monks working on an illustrated manuscript. RTÉ regards these as harmless and certainly not homophobic.

**Decision of Commission:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns the programme *The Savage Eye*. The Committee noted that the



---

series consists of episodes in which a satirical look is taken at issues of relevance to Ireland. The issue that was explored in this particular episode, which is the subject of this complaint, was '*why are the Irish so influential in the world of Arts?*' In the subsequent broadcast, a number of reasons were explored in a satirical fashion such as in ancient Ireland there were no newspapers, Irish pubs, the Irish landscape, Irish dancing and so forth.

The Committee noted that the broadcast was preceded by a warning. The viewer was informed by the continuity announcer, that '*now on Two, comedian David McSavage takes a biting satirical look at Irish life. It's not for the sensitive, so be prepared to be scandalised as we enter the outrageous world of The Savage Eye*'. Further, the format and type of pending content was evident in the opening sequences. The voice-over at that start included. '*Ireland a land of complex questions and simple people, over this little place we cast The Savage Eye*'. A number of snippets of interviews with people stating why they believed Irish people, including themselves, were so artistic. Therefore, it was clearly evident from the start of the piece that it was satirical. Audiences would be aware that with such genre of programming, facets of Irish life such as sexuality, famous Irish people and influential institutions such as the Church are, and can expect to be, subjected to parody. While such humour may not appeal to all tastes, the Committee must respect the right to freedom of expression.

On viewing this broadcast, the Committee could not determine that the language was unjustifiable and/or that any particular sketch was unduly offensive to homosexuals or the Catholic Church. The Committee found that the satirical content of the programme was reasonable. Further, the programme was broadcast in the late-night schedule.

With regard to the reference to scenes of children sitting on a Priest's lap, the only one image the Committee noted that this reference might be relevant to, was an image of a painting of a Priest with a child sitting on his lap. When viewed in context, the Committee could not determine that the image was inappropriate as submitted by the complainant. The issue of child abuse is a major current issue in Irish society and one that can be subject to parody. The particular parody on this issue in this broadcast was within acceptable standards.

With regard to stigmatising/demeaning homosexuality, the Committee could find no evidence of such content. There was one scene of two gay monks working on a manuscript, which contained no gratuitous or demeaning content. The only other reference was by the character of the cranky elderly barman. It is evident from viewing the broadcast that the humour is actually directed at the character himself; it is a parody on his character. It would not be reasonable to infer anything else from his ramblings.

While the Committee would acknowledge that the humour may not appeal to all, such lampooning of facets of Irish society and influential institutions is a widely recognised genre of programming, one which can be hard-hitting. Given the scheduling, the use of a warning prior to broadcast, the nature of the series and regular viewers' expectations, the Committee found that the material broadcast was unlikely to cause widespread offence. There was also no evidence of any intent to gratuitously offend priests or homosexuals. The complaint was rejected with regard to the Code of Programme Standards, sections 2.2 due care, 3.3.1 coarse & offensive language.



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

**Ref. No. 598/09**

Station:

RTÉ 2FM

Programme:

The Gerry Ryan Show

Date:

24 November 2009

**Complaint Summary:**

Mr. Haverty's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b)(harm & offence, the Code of Programme Standards - section 2.2. due care). The complainant states that Gerry Ryan, in referring to the ISS report on Adoption in Vietnam, said that 'the' suspicion is that maybe babies are being 'farmed' for sale. Gerry Ryan represented this as 'the' suspicion contained in, or arising out of, the ISS report. He did not represent this as his own conclusion. Listeners will have understood that the report somehow makes this suggestion, perhaps not explicitly, but indirectly.

The report does no such thing. The main suspicion raised by the report is that, because of questionable 'humanitarian aid' money changing hands, children are being made available for inter-country adoption, without due regard for other preferred solutions such as domestic adoption or retention of the biological family. There is not the slightest hint of a suspicion that babies are being 'farmed' or systematically conceived by desperate women for the pre-meditated purpose of being relinquished in exchange for money.

The report details several flaws in present arrangements and gives rise to the suspicion of some questionable practices, but these are a million miles away from the nightmare vision that Gerry Ryan has invented and represented as somehow being contained in, or arising from the ISS report. He made his false claim very stridently and persuasively to the listening public.

This is worse than irresponsible. The listening public now believe that ISS, and by extension, UNICEF, have grounds to suspect, and do suspect, that Vietnamese children adopted by Irish and other foreign parents were 'farmed'. Mr. Haverty and his wife adopted a boy in Vietnam last year and so this applies to his adopted son, whose integrity has been damaged both now and into the future. His family's reputation has been damaged by Mr. Ryan's false, invented claims, and they have caused great hurt to both him and his wife. Repairing or containing the damage this may have done in the mind of his 11-year old biological son, who was with them in every step of the process, is a long term project.

For the avoidance of doubt and in anticipation of thoughtless response from the broadcaster, Mr. Haverty wants to be very clear. His complaint is not about Gerry Ryan conveying any details in the ISS report, however unpalatable. Mr. Haverty has read the report agrees with and welcomes it. Mr. Haverty's complaint is with Gerry Ryan's unfounded and false claim that 'the' suspicion is that babies are perhaps being farmed in Vietnam for adoption – when no such suspicion, or hint thereof, is evident in the report.

The fact that he gave airtime and expressed sympathy with two callers who are involved in adoption procedures does not mitigate the damage he has done. In fact the reverse – he manipulated their calling



---

in to repeat his outrageous and false claims. By articulating his understanding of how sensitive this issue is to adoptive parents, he compounded this shameful behaviour.

**Station's Response:**

RTÉ states that in his daily review of the newspapers, the presenter made reference to an article in that day's Irish Times in which its legal affairs editor, Carol Coulter, wrote about a UNICEF report on Vietnamese adoptions. Mr. Ryan began by quoting the headline that accompanied the article, *UNICEF queries circumstances of adoptions from Vietnam*. He then went on to summarise the article in the following manner

*This is a controversial report that has been commissioned by UNICEF and has now been published in a fashion. The circumstances under which children in Vietnam become adoptable are unclear and disturbing according to a report from UNICEF. Referring to the manner in which children become available for adoption the report said declarations of so-called abandonment which is notoriously difficult to investigate are intriguingly frequent, but with non-explained "peaks" and "troughs". Procedures for verifying the child's status and for ensuring free and informed consent to adoptions are inadequate and inconsistent.*

All of the above is taken verbatim from the article. Mr. Ryan then went on to comment

*It's very much I suppose the language of bureaucracy, but if you read through this you'll find the report found as Carol Coulter points out in the Times this morning that inter-country procedures were influenced by remarkably unhealthy relationships that can exist between agencies and specific residential facilities. And unfortunately the problem here and this is a very sensitive issue and very difficult to comment on and very difficult to report on. Unfortunately what we are looking at here is the issue and there's no other way to describe it except the issue of children for sale. And at the moment I think what this report is telling us clearly is that huge amounts of money are paid by organisations, I have no doubt well-meaning and with the best interests of potentially adoptive parents at heart and indeed the children who are looking I suppose vicariously for a better home. But you have to ask yourself, can you describe it as anything other than human trafficking when very large amounts of money seem, this is the huge worry, seem to change hands during some of the adoption transactions in Vietnam. And it will be some time before our government and the Vietnamese Government actually come to terms with how to deal with what goes on behind the scenes during these adoptions. But I think the thing we will we all have to accept for better or for worse is that you cannot pay for a child no matter how happy it makes you or no matter how improved the circumstances of the child may become, because the fall-out that surrounds that kind of trafficking, that type of commerce, is horrendous.*

In RTÉ's view, Mr. Ryan's summary of the newspaper article and his comments on the article were accurate, sensible and compassionate.

He returned to the topic later in the programme when he interviewed two women going through the adoption process who contacted the programme to say that they were unhappy at some of the implications of Mr. Ryan's remarks. The first of these was Lisa, who is trying to adopt a child from Ethiopia. The second was Nicola, who is hoping to adopt a baby through the agency, Helping Hands, which was criticised in the UNICEF report.



---

Both interviews were understanding and compassionate. Mr. Ryan made it clear that he fully understood the motives of those seeking to adopt and that everyone accepted that their motives were beyond reproach. But he did make the point that if agencies got paid considerable sums of money for providing children for adoption there was the danger of exploitation of vulnerable women who would agree to become pregnant in order to receive money if they give up their children for adoption. Both Lisa and Nicola were given ample opportunities to explain their concerns about what Mr. Ryan had said. Both interviews ended with Gerry Ryan asking could the two women keep in touch with the programme and its listeners as they tried to successfully adopt children.

It is RTÉ's view that the presentation of the summary of the UNICEF report and the subsequent interview with the two women was well researched and that listeners were given a very adequate summary of the report and of the issues raised by the report. Mr. Haverty is concerned that the UNICEF report may reflect badly on Vietnamese children in Ireland (including his own) and that the programme should have been more critical of the UNICEF report. This may be Mr. Haverty's view, but RTÉ believes that what was presented in the programme was an accurate and fair account of a reputable newspaper article and a subsequent follow up discussion with two people who were upset by the account of the article in Mr. Ryan's newspaper review.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns comments by the presenter regarding a report on adoptions in Vietnam. The Committee noted that the complainant submits that the presenter himself had interpreted the report. However, on hearing the broadcast it is evident that Mr. Ryan was reviewing the main stories in the newspapers that day. His comments on adoption were in the context of an article in the Irish Times that day. The review of the newspapers is a regular slot on the *Gerry Ryan Show*. Regular audiences would expect to hear the presenter's views on the various main news stories as presented in the papers that day. In an article on a UNICEF report, it stated that the manner of availability of children for adoption involved '*non-explained peaks and troughs*'.

The Committee noted that the complainant objects to the interpretation of the report. While the Committee would acknowledge the sensitivity of the subject matter to the complainant and can understand his reaction to the programme, the Committee was of the view that the presenter's comments had a basis in the article as written that day. The issue of finance was one of the concerns and this fact was reflected in the newspaper article. The Committee also noted the tone and manner of presentation. The presenter's presentation was considerate and moderate; he clearly articulated that it was a very sensitive issue and the report could potentially be hurtful to people. At no stage did he question the integrity of adoptive parents or the children. He quite clearly stated that they were beyond reproach, '*that everybody who gives a child a home is to be applauded*'.

Later in the programme, two female callers who were both in the process of adopting a child from abroad, were permitted ample time to express their views on what the presenter had stated earlier in his review of the newspaper article. Both women explained that they found it upsetting and were angered by it, as they did not, like all other Irish parents, want a child at any cost. They asserted that the article was in effect tarnishing



---

all adoptive parents. One contributor, Lisa, stated ‘....a controversy and we are being dragged into it and I just want everyone to understand we are not part of that. And people before us who have adopted, and future parents, are not’. Throughout the discussions with both female callers, the presenter repeatedly stated that the issue was not about the adoptive parents or children; the concern was with the unscrupulous activities by organisations in Vietnam and the potential exploitation of some vulnerable Vietnamese women by these organisations.

On hearing the entire broadcast, it was evident that the presenter empathised with adoptive parents and children. He clearly stated that there was no issue with the integrity of adopted children and their adoptive parents being called into question. Further, he presented the issue of concern, that of the potential exploitation of Vietnamese women by organisations in their country, in a considerate and non-offensive manner. Two female callers were also permitted to speak of their experiences in trying to adopt children from abroad and to challenge the presenter. The subject matter in this broadcast was treated in a fair and compassionate manner and it was fair to all interests concerned. The Committee found that it would not be reasonable to determine that the discussion caused undue offence and undue harm. The complaint was rejected with regard to the Code of Programme Standards, 2.2 due care.

[Back to index](#)

**Complaint made by: Dr. Eoin Devereux, Dr. Amanda Haynes, Dr. Martin J. Power**  
**Ref. No. 602/09**

Station:

TV3

Competition:

Crime Capitals

Date:

29 October 2009

### **Complaint Summary:**

Doctors Devereux, Haynes and Power submit their complaint under the Broadcasting Act 2009, section 48(1)(a)(fairness, objectivity and impartiality in current affairs). The complainants’ state that as a research team with expert knowledge of how the mass media portray disadvantaged areas they submit their complaint on the following grounds:

- The programme contains a number of factual errors
- The programme’s content maligns the reputation of Limerick City and of specific areas namely Moyross and South Hill. This is achieved through the programme making a set of unsubstantiated claims.
- One tenth of the programme is concerned with an event which, by the presenter’s own admission, was not feud-related.
- The use of archive footage from outside Limerick city to illustrate commentary about the city.

#### (1) Factual Errors:

The programme contains a number of factual errors. For example, the presenter states that Eddie Ryan was killed outside the Moose Bar when in fact he was killed inside the bar. (The TV3 news footage contained in the documentary contradicts his claim). The programme’s opening sequence





---

tells viewers that “we investigate Limerick’s gangland war. We speak to victims and to perpetrators”. Nowhere in the programme are the perpetrators spoken to.

(2) Maligning Limerick and Specific Estates:

The programme suggests that in 2008 Limerick was the “murder capital of Europe” based upon a figure of 7 murders per 100,000 population. While the use of such a sensationalist label is itself problematic, the validity of using this measure to assign this label is also highly questionable. (Using the measure, the smaller the population of an area the greater the statistical impact of even a single murder). Moyross is described as “another black spot” and “a haven for criminals”. Moreover, the presenter states that “around the South Hill area there is a general air of lawlessness”.

(3) Coverage of Hannan Murder

Over 4 minutes of the programme focuses on the murder of Jeffrey Hannan. The presenter himself makes it clear that the murder was not connected to the gangland feud. Yet, its inclusion in a programme purporting to investigate “Limerick’s gangland war” implicitly connects it to these wider events. This murder is significant in its own right.

(4) Production Style:

The programme made use of footage of adolescents jumping on a burnt out car. Since the broadcast of the programme, it has been revealed that the footage was in fact shot in Dublin and was filmed for a separate documentary on the ‘Joy-Riding’ problem. The choice of visual imagery, more generally, homogenises both South Hill and Moyross. In constructing an image of these estates the viewer witnessed repeated use of footage of wandering horses, burnt out and derelict houses and wasteland. While the programme does acknowledge two positive developments e.g. South Hill Power-Lifting Club and the Shrine in Moyross, the overall impression created by this programme is of these estates being out of control. The programme did not adequately reflect on the diversity of experience in these areas.

**Station’s Response:**

TV3 states that this programme was one in the series entitled “Ireland’s Crime Capitals”. This was a TV3 production that utilised the skills of a highly respected crime reporter and dealt with a number of geographical areas within Ireland. Limerick was, therefore, in no way singled out. The reality is that a series on contemporary Irish criminality without covering the gang/family feud in Limerick would have been highly unusual, given the high national and indeed international profile of this issue.

TV3 states that it would appear that the complainants’ have particular issues with what they see as a “sensationalist” approach and tabloid production style. It should be noted that “tabloid” style coverage of criminality is an entirely legitimate journalistic style. The main obligations on broadcasters are to ensure that they are in compliance with statutory obligations and the relevant broadcast codes.

The treatment of current affairs is meant to be “fair to all interests concerned” and to be impartial. In this respect, the complainants do themselves acknowledge that in part 2 of the programme, TV3 did cover the South Hill Power-Lifting Club and the Shrine in Moyross. In part 3 of the programme, reference was made to





---

the Limerick regeneration plan. Significant parts of the programme did discuss these positive matters and the vast majority of the contributors to the programme were locals.

In respect of the issue of accuracy, it should be noted that, as the complainants themselves state, TV3 made it clear that the Jeffrey Hannan murder was not connected to any feud. This was included in the programme within the general context of outlining the serious criminality that exists within the area. In respect of the statement that “some of the footage used was from Dublin”. Footage was used to illustrate a complaint made to our staff by many local people in Moyross and South Hill in relation to anti-social behaviour by juveniles. This was a significant issue for residents that deserved to be highlighted. Given the privacy and legal issues surrounding the depiction of minors who would be identifiable it should be noted that there is a statutory obligation in respect of privacy in Section 42(1) of the Broadcasting Act 2009. TV3 used footage that illustrated general anti-social behaviour which was less extreme than that complained of. As such, TV3 believes the footage used was proportionate, reasonable and responsible.

In relation to statistics, TV3 state that its comment was “last year Limerick became the murder capital of Europe with seven homicides per 100,000 people”. This was based on CSO statistics.

TV3 regrets that the complainants believe that it maligned the reputation of Limerick. The reality is that TV3 conducted extensive on-site interviews with a large number of people, both locals and relevant professionals and did present positives about Limerick as well. TV3 states that their chosen narrative style was obviously not liked by the complainants, however, in the context of the watershed and viewer expectation, this form of programming was legitimate and of interest to viewers.

TV3 claims that it has provided and will continue to provide a substantial and balanced coverage of Limerick through all their News programming. It has covered extensively issues such as the regeneration plans for Moyross, South Hill and Ballinacurra-Weston, the task force set up for redundant Dell workers and the latest plans for the Limerick/Galway railway line.

**Decision of Compliance Committee:**

The Committee considered the broadcast, and the written submissions of the broadcaster and complainant.

The Committee noted that the programme focussed, in the main, on the feud between two known families in Limerick and two places most affected by the feuding, Moyross and South Hill. The Committee would also accept that the programme is one of a series entitled ‘Ireland’s Crime Capitals’. The Committee would acknowledge that the broadcaster had editorial independence as to what stories it covers within such series. The series highlights all types of crime all over the country, some of which has been widely reported in the media such as the gangland violence in Limerick and others which have not. Many of the stories would be considered as public and/or human interest.

The Committee would acknowledge that there were a few inaccuracies or unsubstantiated claims in the broadcast. The Committee noted that the inaccuracy regarding the reference to the murder of Eddie Ryan was in the presenter’s use of the word ‘outside’ the Moose Bar. However, this was corrected



---

immediately thereafter by the broadcast of an extract of the news bulletin from the time of the murder which stated that Mr. Ryan was killed inside the bar. In addition, the presenter did not speak to perpetrators of the reported violence, however, the programme did include footage of certain alleged gang members. On viewing the entire broadcast, the Committee was of the view that while such inaccuracies were undesirable, they were not sufficient to affect the substantive issue of the broadcast and therefore, could not render the broadcast inaccurate or unfair.

The complainant raises an issue with the production style. The Committee would acknowledge that some viewers may dislike the tabloid and sensationalist style of the programme; however, this is a well-known journalistic style and an editorial decision that the broadcaster is entitled to make. The presentation style was at all times factual and contributors were invited to speak about their own personal experiences or to offer their expert opinions on certain matters. The interviews were conducted in a fair and balanced manner with no evidence of partiality.

The complainant refers to the murder of Jeffrey Hannon to which 4 minutes of the programme is devoted. On viewing this part of the broadcast, the Committee would not accept that its inclusion implicitly connects it to the gangland feud. The presenter made it clear in his introduction to the story that it was not part of the gangland feud. It is referred to in the context of Limerick having a high rate of murder per population based on CSO figures. In this regard, the Committee would acknowledge that the veracity of the sources of information is the independent editorial responsibility of a broadcaster. The programme makers were entitled to rely on publicly-available factual sources. The Committee was of the view that Mr. Hannon's murder was portrayed as a tragedy in its own right. It is evident that its inclusion in the programme was supported by his family. The Committee would also note that an equal amount of airtime was provided to the programme's coverage of a positive aspect of life in South Hill – the Power-Lifting Club.

The Committee considered it would have been evident to viewers that the footage of teenagers vandalising a burnt-out car was intended to depict general anti-social behaviour which is not particular to South Hill or Moyross but one which is, unfortunately, a real-life occurrence in many areas around the country. Its inclusion was not inappropriate given the matter (an arson attack) addressed in that part of the programme.

The complainant also raises an issue with a number of descriptions of areas in Limerick. The Committee noted that some of the terms/statements were opinions expressed by the contributors to the programme. The contributors were entitled to give their opinions of their impression/experience of a place, for example Father Pat Hogan from South Hill states that his impression of the place when he first arrived was 'lawlessness'. The writer Anthony Galvin notes that historically St. Mary's Park was considered a working-class impoverished area in Limerick. The statistics on unemployment and the drop out rate from schools were factual. The visual images of the estates were also factual and editorially justified.

The Committee noted there was a good range of contributors who provided a diversity of views which included: the Minister for Defence and a local TD, a councillor, a community worker, a journalist, a writer, and local residents, including the priest from South Hill. There were both negative and positive views expressed about the areas. The programme also focussed on positive developments in the areas for



---

example the Ormonde Rugby Park, South Hill power lifting club, the Shrine in Moyross and the Limerick Regeneration Programme.

In the opinion of the Committee, there was no evidence of any broadcast material used with intent to malign Limerick and/or specific estates as submitted by the complainants. Both South Hill and Moyross are recognised disadvantaged areas and also, areas adversely affected by crime and violence. This programme dealt with these specific issues in an objective and factually-based manner, and was fair to all interests concerned. Accordingly, the complaint was rejected with regard to section 48(1)(a) (fairness, balance and objectivity).

[Back to index](#)

**Complaint made by: Mr. Juan Carlos Azzopardi on behalf of the Community  
Development Network Moyross Ref. No. 604/09**

Station:

TV3

Competition:

Crime Capitals

Date:

29 October 2009

**Complaint Summary:**

Mr. Azzopardi's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b) (harm & offence, the Code of Programme Standards - 3.5.2 and 3.5.4 factual programming). The complainant states that the programme contained factual errors, offensive and potentially harmful to people in Moyross and caused hurt and offence to the parents and families of innocent children who died tragically over the years. The main inaccuracies were:

- ❖ The programme makers stated that "Limerick City is the murder capital of Europe". This is factually incorrect. When Channel 4 News repeated the same lie they were forced to issue an apology. Italian cities such as Naples and cities in the Baltic States have higher murder rates. Limerick is not even the crime capital of Ireland and perpetuating such a lie is harmful to the city and its citizens.
- ❖ The programme asserts that Moyross is the Keane/Collopy gang stronghold. Mr. Azzopardi claims this is untrue as this gang is based across the river in an entirely different area. The complainant states that it is very dangerous to link a community with one gang when other criminal gangs, not from Limerick, could wrongly target people with a particular surname and a Moyross address on the basis of such a mistake. The death of innocent people has already happened as a result of mistaken identity.
- ❖ The programme also stated that "the people have to endure weekly arson attacks". While sporadic incidents have taken place, they are not a weekly occurrence. Since October 2006 and the horrific attack on two children, the level of arson attacks would be close to zero.
- ❖ Mr. Azzopardi states that the most offensive error was the depiction of the Shrine where the voice over purports that the Shrine was set up in response to the violence and deaths as a result of feuding and criminality. This Shrine was erected in 1998, way before the violence focused on in the programme erupted and was to commemorate children in the area who died as a result of accidents and illness totally unrelated to the 'Crime Capital' context of the programme. This was not made clear in the programme. Rather, through some clever editing the opposite impression was created. Mr. Azzopardi



---

believes it is very offensive and insensitive to the families of these deceased children to characterize the Shrine and, therefore, the nature of their deaths as feud related.

**Station's Response:**

TV3 states that this programme was one in the series entitled "*Ireland's Crime Capitals*". This was a TV3 production that utilised the skills of a highly respected crime reporter and dealt with a number of geographical areas within Ireland. Limerick was, therefore, in no way singled out. The reality is that a series on contemporary Irish criminality without covering the gang/family feud in Limerick would have been highly unusual, given the high national and indeed international profile of this issue.

TV3 states that it would appear from the complainant's letter that he has a particular issue with what he terms as "an offensive approach". The "tabloid" style adopted by TV3 is entirely legitimate journalistic style. The main obligations on broadcasters are to ensure that they are in compliance with statutory obligations and the relevant broadcast codes.

In relation to statistics, TV3 comment was "last year Limerick became the murder capital of Europe with seven homicides per 1000,000 people". This was based on CSO statistics.

TV3 states that the programme made it clear that the Keane/Collopy gang was in fact based in St. Mary's Park and had a significant presence in the Moyross area. This is factual. In respect of Mr. Azzopardi's comment that this could lead to attacks on individuals, TV3 rejects this very strongly. The reality is that the main protagonists in the Keane/Collopy gang are well known, both within the area and also to the relevant authorities and, as such, TV3 does not accept that the television programme could have this impact.

In respect of Mr. Azzopardi's comment that the level of arson attacks would be "close to zero", TV3 was informed by locals in the area during interviews that arson attacks are commonplace. In relation to the Moyross Shrine, TV3 claims this is mentioned in the context of an interview with local Councillor Paddy Flanagan. The Councillor states clearly that the Shrine was set up to honour the high number of fatalities in the Moyross area among young people. He also has intimate knowledge of the area and he makes it absolutely clear that the Shrine was set up on the site of a shop. He also makes it clear that the Shrine was set up in the context of childhood fatalities. TV3 deny that this was in any way connected with the feuding. To quote the Councillor in the programme:

*There is great good in the people of Moyross. They have a faith and a belief. The Shrine here is a tragic testimony to all the young people that have tragically died down through the years in Moyross. There used to be a shop here which, in the past, would have been a source of anti-social behaviour in the community. All kinds of things going on in it and it (the Shrine) is a living testimony to the loss of youth that is occurring nearly all of the time in our community.*

In respect of Mr. Azzopardi's general comment that TV3 maligned the reputation of Limerick, TV3 claims that it conducted extensive on-site interviews with a large number of people, both locals and relevant professionals and did present positives about Limerick as well. TV3 states that their chosen narrative



---

style was obviously not liked by the complainant. However, in the context of the watershed and viewer expectation, this form of programming was legitimate and of interest to viewers.

TV3 claims that it has provided and will continue to provide a substantial and balanced coverage of Limerick through all their News programming. It has covered extensively issues such as the regeneration plans for Moyross, Southill and Ballinacurra-Weston, the task force set up for redundant Dell workers and the latest plans for the Limerick/Galway railway line.

**Decision of Compliance Committee:**

The Committee considered the broadcast and the written submissions of the broadcaster and complainant. The Committee noted that the programme focussed, in the main, on the feud between two known families in Limerick and also, two places most affected by the feuding, Moyross and Southill. The Committee noted that the programme was one of a series entitled '*Ireland's Crime Capitals*'. The Committee would acknowledge that the broadcaster had editorial independence as to what stories it covers within such series. The series highlights all types of crime all over the country, some of which has been widely reported in the media such as the gangland violence in Limerick and others which have not. Many of the stories would be considered as public and/or human interest.

The Committee would acknowledge that there were a few inaccuracies or unsubstantiated claims in the broadcast. For example, the reference by the presenter to the murder of Eddie Ryan 'outside the Moose Bar' was incorrect as Mr. Ryan was murdered inside the bar. However, this inaccuracy was corrected immediately by the broadcast of an extract of a news bulletin from the time of the murder, which stated that Mr. Ryan was killed inside the bar. The Committee would accept that the presenter's claim of 'weekly arson attacks' was not substantiated by him or any of the contributors on the programme. The Committee noted the broadcaster's submission that locals in the area informed the programme makers that arson attacks were commonplace; however, this does not substantiate the claim of 'weekly' attacks. On viewing the entire broadcast, the Committee was of the view that while such inaccuracies were undesirable, they were not sufficient to affect the substantive issue of the broadcast and therefore, could not render the broadcast inaccurate or unfair.

The Committee would not agree that the programme asserts that Moyross is the Keane/Collopy gang stronghold as submitted by the complainant. The writer Anthony Galvin stated, at the outset, that the gang was based historically in St. Mary's Park and one would take from the programme that the gang has a present-day presence in Moyross.

The Committee would accept that the history of the Shrine as submitted by the complainant was not stated on the programme i.e. that it was erected to commemorate children who died as a result of accidents and illnesses. However, it did not consider that viewers would automatically draw an inference that it was related to gangland feuding by its inclusion in this part of the programme. The introduction by the presenter provided the context for the reference to the Shrine; there is, statistically, a very high number of young people living in the Moyross community (over half the population is under 25) and Mr. Paddy Flannery, a community worker based in Moyross stated his belief that the community has a strong



---

faith and belief. He saw the Shrine as a living testimony to the ongoing loss of youths in the community. At no stage did he connect it to the gangland feuding.

The claim that Limerick is the murder capital of Europe was made in the context of Limerick having a high rate of murder per population based on CSO figures (7 homicides per 100,000 people). In this regard, the Committee would acknowledge that the veracity of the sources of information is the independent editorial responsibility of a broadcaster. The programme makers were entitled to rely on publicly-available factual sources.

The Committee noted there was a good range of contributors who provided a diversity of views which included: the Minister for Defence and a local TD, a councillor, a community worker, a journalist, a writer, and local residents, including the priest from South Hill. There were both negative and positive views expressed about the areas. The programme also focussed on positive developments in the areas for example the Ormonde Rugby Park, South Hill power lifting club, the Shrine in Moyross and the Limerick Regeneration Programme.

In the opinion of the Committee, there was no evidence of any broadcast material which could be considered offensive and/or potentially harmful to people in Moyross as submitted by the complainant. There was also no content which could reasonably have been considered to have prejudiced respect for human dignity. Further, both South Hill and Moyross are recognised disadvantaged areas and also, areas adversely affected by crime and violence. This programme dealt with these specific issues in an objective, factually-based and non-offensive manner. Such content was editorially justified and of public interest. Accordingly, the complaint was rejected with regard to section 48(1)(b) the Code of Programme Standards, 3.5.2 and 3.5.4 factual programming.

[Back to index](#)

**Complaint made by: Mr. & Mrs. M & J Reddy** **Ref. No. 618/09**

Station:	Programme:	Date:
RTÉ 2FM	The Gerry Ryan Show	24 November 2009

**Complaint Summary:**

Mr. & Mrs. Reddy's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b) (harm & offence, the Code of Programme Standards - 2.2. due care and 3.4.1 persons and groups in society). The complainants state that Gerry Ryan made several statements about the "buying" and "farming" of babies for adoption through Vietnam. Mr. and Mrs. Reddy believe that these statements were made to sensationally highlight some concerns raised about inter-country adoption through a recently published ISS report. This report does not state that children are either "farmed" or "bought" as Mr. Ryan implied on several occasions throughout this section of his show.

Mr. & Mrs. Reddy feel deeply offended as they adopted a little girl from Vietnam in July of this year. They found the process to be both professional and transparent. Mr. Ryan's comments and insistence in only looking at generalised concerns raised in this report to be a reflection of a dishonest process on the part





---

of every adoption has now resulted in people who know nothing about this long and rigorous process, to believe that they bought their baby. They believe that the long term impact of this on their innocent and beautiful daughter, will be immense. These comments were both neglectful and unprofessional; perpetrated in a sensational and opinionated manner that does not reflect the process of adoption from Vietnam. The pain, frustration and deep upset of this level of ignorant and abusive programming has upset and worried Mr. & Mr. Reddy greatly.

**Station's Response:**

RTÉ states that in his daily review of the newspapers on 24 November, the presenter of the programme Gerry Ryan, made reference to an article in that day's Irish Times in which its legal affairs editor, Carol Coulter, wrote about a UNICEF report on Vietnamese adoptions. Mr. Ryan began by quoting the headline that accompanied the article, *UNICEF queries circumstances of adoptions from Vietnam*. He then went on to summarise the article in the following manner

*This is a controversial report that has been commissioned by UNICEF and has now been published in a fashion. The circumstances under which children in Vietnam become adoptable are unclear and disturbing according to a report from UNICEF. Referring to the manner in which children become available for adoption the report said declarations of so-called abandonment which is notoriously difficult to investigate are intriguingly frequent, but with non-explained "peaks" and "troughs". Procedures for verifying the child's status and for ensuring free and informed consent to adoptions are inadequate and inconsistent.*

All of the above is taken verbatim from the article. Mr. Ryan then went on to comment

*It's very much I suppose the language of bureaucracy, but if you read through this you'll find the report found as Carol Coulter points out in the Times this morning that inter-country procedures were influenced by remarkably unhealthy relationships that can exist between agencies and specific residential facilities. And unfortunately the problem here and this is a very sensitive issue and very difficult to comment on and very difficult to report on. Unfortunately what we are looking at here is the issue and there's no other way to describe it except the issue of children for sale. And at the moment I think what this report is telling us clearly is that huge amounts of money are paid by organisations, I have no doubt well-meaning and with the best interests of potentially adoptive parents at heart and indeed the children who are looking I suppose vicariously for a better home. But you have to ask yourself, can you describe it as anything other than human trafficking when very large amounts of money seem, this is the huge worry, seem to change hands during some of the adoption transactions in Vietnam. And it will be some time before our government and the Vietnamese Government actually come to terms with how to deal with what goes on behind the scenes during these adoptions. But I think the thing we will we all have to accept for better or for worse is that you cannot pay for a child no matter how happy it makes you or no matter how improved the circumstances of the child may become, because the fall-out that surrounds that kind of trafficking, that type of commerce, is horrendous.*

In RTÉ's view Mr. Ryan's summary of the newspaper article and his comments on the article were accurate, sensible and compassionate.





---

He returned to the topic later in the programme when he interviewed two women going through the adoption process who contacted the programme to say that they were unhappy at some of the implications of Mr. Ryan's remarks. The first of these was Lisa, who is trying to adopt a child from Ethiopia. The second was Nicola, who is hoping to adopt a baby through the agency, Helping Hands, which was criticised in the UNICEF report.

Both interviews were understanding and compassionate. Mr. Ryan made it clear that he fully understood the motives of those seeking to adopt and that everyone accepted that their motives were beyond reproach. But he did make the point that if agencies got paid considerable sums of money for providing children for adoption there was the danger of exploitation of vulnerable women who would agree to become pregnant in order to receive money if they give up their children for adoption. Both Lisa and Nicola were given ample opportunities to explain their concerns about what Mr. Ryan had said. Both interviews ended with Gerry Ryan asking could the two women keep in touch with the programme and its listeners as they tried to successfully adopt children.

Mr. and Mrs. Reddy's complaint is that Gerry Ryan's summary gave a misleading impression about existing adoptions of Vietnamese children by Irish parents in that listeners to the programme heard references to children being *farmed* and *bought*. It is the case that Gerry Ryan used these terms, but he did so with the greatest care and respect both for adoptive parents and for children already adopted. Gerry Ryan was taking about the inevitable perception, if the UNICEF report is accurate (and RTÉ has no reason to disbelieve the report), that vulnerable women could be exploited into having children in order to make them available for adoption and that were this to happen, effectively these children were being *farmed and bought*. Mr. and Mrs. Reddy are concerned that this reporting of the UNICEF report may reflect badly on Vietnamese children in Ireland but Gerry Ryan was at pains to point out that the issue was the principle of potential exploitation, which presumably is the reason why there has been a breakdown in negotiations between the Vietnamese and Irish authorities in regard to adoption agreements and not already completed adoptions.

RTÉ regrets that the programme has caused Mr. and Mrs. Reddy offence. This was certainly not RTÉ's intention. We believe that the programme was accurate and impartial and that no undue offence or harm was caused to anyone. The offence taken by the Reddys could not have been avoided in a discussion about a report that raised serious concerns about adoptions from Vietnam.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns the manner in which the presenter commented on a report on adoptions in Vietnam. The Committee noted that the presenter's comments on adoption were in the context of an article in the Irish Times that day. The review of the newspapers is a regular slot on the *Gerry Ryan Show*. Regular audiences would expect to hear the presenter's views on the various main news stories as presented in the papers that day. In an article on a UNICEF report, it stated that the manner of availability of children for adoption involved '*non-explained peaks and troughs*'.



---

The Committee noted that the complainant objects to the presentation style, including language. While the Committee would acknowledge the sensitivity of the subject matter to the complainants and can understand their reaction to the programme, the Committee was of the view that the presenter's comments and presentation throughout were moderate and compassionate. His comments had a basis in the newspaper article as written that day. The issue of finance was one of the concerns and this fact was reflected in the article.

In discussing the report, the Committee noted that the tone and manner of presentation was considerate; the presenter clearly articulated that it was a very sensitive issue and the report could potentially be hurtful to people. At no stage did he question adoptive parents or the children. He quite clearly stated that they were beyond reproach, *'that everybody who gives a child a home is to be applauded'*.

Later in the programme, two female callers who were both in the process of adopting a child from abroad, were permitted ample time to express their views on what the presenter had stated earlier in his review of the newspaper article. Both women explained that they found it upsetting and were angered by it, as they did not, like all other Irish parents, want a child at any cost. They asserted that the article was in effect tarnishing all adoptive parents. One contributor, Lisa, stated *'...a controversy and we are being dragged into it and I just want everyone to understand we are not part of that. And people before us who have adopted, and future parents, are not'*. Throughout the discussions with both female callers, the presenter repeatedly stated that the issue was not about the adoptive parents or children; the concern was with the unscrupulous activities by organisations in Vietnam and the potential exploitation of some vulnerable Vietnamese women by these organisations.

On hearing the entire broadcast, it was evident that the presenter empathised with adoptive parents and children. He clearly stated that there was no question of the integrity of adopted children and their adoptive parents. Further, he presented the issue of concern, that of the potential exploitation of Vietnamese women by organisations in their country, in a considerate and non-offensive manner. Two female callers were also permitted to speak of their experiences in trying to adopt children from abroad and to challenge the presenter. The subject matter in this broadcast was treated in a fair and compassionate manner and it was fair to all interests concerned. The Committee found that it would not be reasonable to determine that the discussion caused undue offence and undue harm. There was also no evidence of material that could be considered to be derogatory and/or demeaning of any persons or groups in society. The complaint was rejected with regard to the Code of Programme Standards, 2.2 due care and 3.4 persons & groups in society.

[Back to index](#)

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

**Ref. No. 621/09**

Station:

RTÉ One

Promo:

'Battle of the Sexes'

Date:

29 November 2009

### **Complaint Summary:**

Mr. Murphy's complaint is submitted under The Code of Programme Standards (Section 48(1)(b)Harm & Offence: sections 2.4 protection for children and 3.6.4 children's programming). Mr. Murphy states he and



---

his five young daughters watched the repeat of *The Late Late Toy Show* on Sunday afternoon. Mr. Murphy was saddened and angry at the content of an advertisement shown on more than one occasion during the duration of this broadcast. The advertisement was for a television programme to be shown that evening on RTÉ entitled "*Battle of the Sexes*".

Mr. Murphy objects to the airing of the advertisement containing inappropriate language of a sexual nature during the broadcasting of a children's programme. The voiceover referred to men complaining they were not getting enough sex.

In a week when the focus of the whole country is firmly on the wellbeing of children and the protection of children's childhoods, how could the national broadcaster get it so wrong during the airing of a most popular children's television programme?

**Station's Response:**

RTÉ states that the trailer included images and extracts from a programme called *The Battle of the Sexes* which was due to broadcast later on that evening. The narration was as follows

*Are Irish men and women happy with each other?  
How do Irish men feel about the women they meet?  
And the sex they are getting?  
Have women pushed equality a little too far?  
And is masculinity, as some say, in crisis?  
Ray Darcy meets the guys in the Battle of the Sexes tonight RTÉ One.*

This broadcast was trailer made by the RTÉ Promotions Department to inform viewers of an upcoming programme. The Code of Programme Standards requires broadcasters to ensure that children are protected. RTÉ fully accepts that any trailer broadcast within an afternoon repeat showing of *The Late Late Toy Show* should be appropriate for children. The question therefore the Compliance Committee of the BAI has to consider is the suitability of the promo for children.

RTÉ does not accept that the language used in the trailer was unsuitable for children. The only possible relevant section of the narration is the line.. *and the sex they are getting?* Mr. Murphy describes this as *inappropriate language*. In RTÉ's view the language used was unlikely to cause either harm or offence.

In essence what Mr. Murphy is really objecting to is the reference to sex in the trailer. He does not wish his daughters to hear this reference to sex. RTÉ accepts that it would have been better had this line of script not been included in the narration of the trailer broadcast during a programme when many children would be viewing and apologises to Mr. Murphy for its inclusion. However, RTÉ does not accept that the broadcast of the trailer breached the Code of Programme Standards.



---

Section 3.6.4 of the code states that *trailers for adult programming containing material not reasonably regarded as suitable for children shall not be immediately before, during or immediately after children's programming*

There was nothing in the trailer for *The Battle of the Sexes* which was unsuitable for children. RTÉ fully accepts the programme would not have been of interest to children, but viewing it would not have resulted in any harm or offence.

**Decision of Compliance Committee:**

The Committee considered the broadcast, and the written submissions of the complainant and the broadcaster. The complaint concerns the use of the word 'sex' in a station promotion during a re-broadcast of *Late Late Toy Show*. In assessing the complaint, the Committee had to have regard to the Code of Programme Standards and in particular, 2.4 protection for children and 3.6.4 children's programming.

The Committee also had to have regard to the fact that broadcasters can promote post watershed programmes at pre-watershed times. What is important to the Committee is that such promotions are suitably edited for broadcast.

On viewing the promotion, the Committee would accept that, visually, there was nothing in the promotion which was unsuitable for children. The tone and manner of the narration was matter-of-fact and in the main non-gratuitous and inoffensive. However, the Committee considered that the reference to sex in the narrative was not appropriate when it was broadcast on either side of *The Late Late Toy Show*, a programme targeted at and likely to be watched by children. The Committee did not accept that it was editorially justified as the programme could have been promoted successfully without such a question in the narration. The Committee notes that the broadcaster, in its submission to the complaint, accepts the inappropriateness of this particular question in the promotion and has apologised to the complainant. On foot of the actions of the broadcaster coupled with the non-explicit nature of the one use of the word, while inappropriate for time of broadcast, the Committee considered the complaint resolved.

[Back to index](#)

**Complaint made by: Mr. James McMahon**

**Ref. No. 632/09**

Station:

RTÉ 2FM

Programme:

The Gerry Ryan Show

Date:

3 December 2009

**Complaint Summary:**

Mr. McMahon's complaint, submitted under the Broadcasting Act 2009, section 48(1)(b)(harm & offence, the Code of Programme Standards, sections 2.1 general community standards, 2.2 due care and 3.5.2 factual programming news, current affairs and documentaries), refers to the introduction to "what it says in the papers" and in particular to Gerry Ryan's criticism of Bishop Murray in Limerick.



---

Mr. McMahon states Gerry Ryan alluded to the fact that in his defence he (the Bishop) had criticised the RTÉ coverage as being in some sense unfair to him. He then went on to address Bishop Murray personally (“are you listening to me”) or words to that effect. Gerry Ryan then went on to say “you would need to be very careful of what you say about us” (RTÉ) and “if you blacken us we will blacken you”. Gerry Ryan’s tone was threatening, menacing, unfair for a public body and intimidating. If public bodies are allowed to do such things where is the justice and fairness in the democratic system?

In brief, Mr. McMahon objects to this broadcast on the grounds of:

- Offence against commonly held standards;
- Intimidation;
- Causing offence to people like him who wish to see fair play adopted; and
- Distaste.

**Station’s Response:**

RTÉ states that each day at the top of *The Gerry Ryan Show* the presenter reviews the day’s newspapers and offers his own views on what he finds in the papers. In the review of the day’s newspapers on 3 December Gerry Ryan said the following:

*“Gardaí probe Bishops’ Inquiry. Senior clergy could be charged over abuse cover up” from the Irish Daily Mail.*

*I must admit as I have thought about it now that the dust has settled on the Murphy report I have absolutely and utterly no doubt that whoever may have conspired to withhold information from the Guards, to obstruct justice by maybe moving somebody out of the jurisdiction or to another parish or anything that might put an obstacle in the way of a legitimate investigation into the potential of crime having been committed is in itself an unanswerable action and can be investigated and could lead to a prosecution. I think it’s vitally important.*

*I don’t wish to be the first there with the hurl hounding them. But I think it is vitally important that if people did do this whether they are priests or bishops or archbishops that the Guards go after them. And to be perfectly honest I’m 100% sure that’s what the Garda Commissioner Fachtna Murphy is doing and I’m quite sure that if he finds anything within his own organisation that colluded or conspired to obstruct justice in any way that they will also be the subject of investigation. I am sure this is his attitude.*

Mr. Ryan then went on to quote from other matters in the newspapers and added his own comments. He then returned to newspaper coverage of the clerical abuse report.

*“My conscience is clear, I agree I was naïve says Bishop Murray defending his record on child abuse and lashing RTÉ.” Now come off it Bishop Murray, you’re lashing RTÉ, really, are you? Now, he’s lashing RTÉ. Give us a break will you. Go on out of that Bishop Murray, lashing RTÉ. You were naïve. No, you weren’t naïve Bishop Murray, what you did amounted to obstructing justice in the eyes of many of us. So be careful how you chose your words and who you chose to tar with a brush that you’ve already been tarred with.*



---

At this point Mr. Ryan dealt with other matters in the newspapers.

Mr. McMahon's complaint is that he found Gerry Ryan's tone *threatening, menacing, unfair for a public body, intimidating*. RTÉ regrets that Mr. McMahon has interpreted Gerry Ryan's remarks in this way. The style of Gerry Ryan's newspaper reviews is opinionated. He always peppers his reviews with his own comments which are often quite colourful. Regular listeners to the programme are familiar with this approach and clearly understand that the remarks made by Mr. Ryan are his own. If listeners want to hear a review of the papers which isn't opinionated, RTÉ Radio 1 has two reviews broadcast within the *Morning Ireland* programme which do not include any comment.

In RTÉ's view, Mr. McMahon has misinterpreted Gerry Ryan's remarks. His intention was to draw listeners' attention to the fact that the Bishop could not escape his responsibility in regard to his failure to adequately deal with reports of abuse made in the diocese to which he held administrative responsibilities. In fact, the bishop's actions in moving priests accused of abuse from parish to parish may have significantly contributed to subsequent abuse of children. Mr. Ryan was simply making the point that this issue is not a creation of the media (or RTÉ in particular) but is a central conclusion of the Murphy Report. The bishop raising the issue of the media reporting was regarded by Mr. Ryan as a smoke screen to absolve him of personal responsibility for his failure to deal with reports of abuse. RTÉ accepts that Mr. Ryan made the point colourfully, but in essence he was saying nothing more than the issue was not the media's reporting of the report, but the claims that Bishop Murray's responses were inadequate and may even have compounded abuses.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns comments made by the presenter in the course of the review of the main stories in the newspaper that day. The Committee noted that the review of the newspapers is a regular slot on the *Gerry Ryan Show*. Regular audiences would expect to hear the presenter's views on the various main news stories as presented in the papers that day. The Committee also noted that the presenter referred to two articles that day that were concerned with the handling of clerical sexual abuse in the Archdiocese of Dublin.

In one article it was stated that the Gardaí were investigating an alleged cover up. In another article a quote from a Bishop Murray was printed which included: '*I agree I was naïve.....lashing RTÉ*'. On reading the headlines, the presenter expressed his disbelief of the claims made by the Bishop. Further, he expressed the view that is summed up well by the saying 'people in glass houses shouldn't throw stones'. It was evident on hearing the broadcast that the tone of the presenter was one of disbelief. While the comments may have been tinged with a touch of sarcasm, there was no evidence of menace or threat in the tone and/or manner of presentation. Further, the content was editorially justified.

The Committee was of the opinion that there was insufficient substance to the issues as raised by the complainant evident in the broadcast. The complaint was rejected with regard to the Code of Programme Standards and in particular, sections 2.1 general community standards, 2.2 due care and 3.5.2 factual programming news, current affairs and documentaries).



**Complaint made by: Ms. Laura Swift**

**Ref. No. 637/09**

Station:

RTÉ One

Promo:

The Savage Eye

Date:

30 November 2009

### **Complaint Summary:**

Ms. Swift's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b) (harm & offence, the Code of Programme Standards - sections 2.2 due care, 2.4 assessment and 3.3 coarse & offensive language). Ms. Swift states that the promo portrays a rather grotesque character, reminiscent of Father Jack in Father Ted. He is commenting on the teaching of "The birds and the bees". He then says in cynical and harsh voice, words to the effect that he never saw the birds and the bees "riding" each other. The complainant objects to this type of lewd and vulgar slang at any time of the day but particularly this early hour when young children are watching television. Ms. Swift also states that if RTÉ must indulge this crudeness then at least they should limit the broadcast to after 10 p.m.

### **Station's Response:**

RTÉ states that a promotion (promo) for *The Savage Eye* was broadcast on RTÉ One at 20.08 and on RTÉ Two at 21.21 on 30 November 2009.

*The Savage Eye* was a new comedy series starting that night on RTÉ Two at 22.25. RTÉ wanted to let viewers know that the new series was starting. Therefore it was necessary to promote the series earlier in the evening. It would be too late to only start promoting the series after 22:00 as Ms. Swift suggests.

The promo consisted of extracts from the programme. One of these is a character who is a very angry publican. In the promo he is seen and heard saying:

*In my school they talked about the birds and the bees. I don't know why because I've never seen a bird riding a bee, and I tell you if they did they'd probably produce a bumble bird.*

Ms. Swift objects to this part of the promo which she believes is unsuitable for transmission at 20:08. In RTÉ's view, this promo is suitable for broadcast pre-watershed. The only contentious word in the script is *riding*. RTÉ believes this is an acceptable word to use in a promo broadcast at a time when children might reasonably be expected to be viewing. The word *riding* is widely used in a colloquial sense and is not generally regarded as offensive.

Ms. Swift clearly does not like the programme being promoted. But that is no reason to limit the promotion of the programme. Many viewers find the comedian David McSavage funny. His taste in humour obviously does not appeal to all members of the audience and RTÉ has experienced a very mixed bag of correspondence about this programme, with some correspondents condemning it and some praising its satire as original and insightful. This is often the way with comedy and none more so than when the principal characters in a series are depicted as angry.





---

RTÉ has always promoted post watershed programmes at pre-watershed times. As long as the contents of the particular promos are suitable for pre-watershed viewing RTÉ can see no reason to limit transmission. Obviously promos for programmes unsuitable for children will not be scheduled in children's programmes but they will be scheduled when children may be viewing with their parents.

**Decision of Commission:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns a station promotion for the programme *The Savage Eye* and the time of broadcast, pre 10 p.m. In assessing this complaint, the Committee had to have regard to the fact that broadcasters can promote post watershed programmes at pre-watershed times. What is important to the Committee is that such promotions are suitably edited for broadcast pre-watershed. The accepted watershed time for television scheduling is 9 p.m.

The Committee noted that it was evident from the start of the promotion that the content was based on exaggeration and comedy. There were no explicit words and/or visuals in the promotion. The complainant is correct when she states that there was a reference to the birds and the bees and riding. She states that such promotions should only be broadcast after 10 p.m. The Committee could not agree with this submission. One broadcast of the promotion was on RTÉ 2 at 9.21 p.m. Such a slot in the schedule was perfectly acceptable. The slot on RTÉ 1 was at 8.08 p.m. The Committee was of the view that the complainant may have had a point concerning adult material at this time on a Sunday evening, when the soap *'Fair City'* is broadcast.

However, on viewing the promotion the Committee found that it was highly unlikely that young children would have understood the innuendo. Further, the Committee was of the view that it would not be reasonable to determine that the content of the short promotional piece was lewd and vulgar. The Committee would acknowledge that the humour may not have appealed to all tastes. However, it was highly unlikely to cause widespread offence. This particular promotion was suitably moderated for broadcast pre-watershed. The complaint was rejected with regard to the Code of Programme Standards, sections 2.2 due care, 2.4 assessment and 3.3 coarse & offensive language.

[Back to index](#)

**Complaint made by: Ms. Karen Browne**

**Ref. No. 71/10**

Station:

RTÉ Two

Programme:

The Savage Eye

Date:

14 December 2009

**Complaint Summary:**

Ms. Browne's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b) (harm & offence, the Code of Programme Standards: sections 3.4.1 and 3.4.3 persons and groups in society). The complainant states that the programme showed a mock citizenship class during which potential immigrants were told that they would have a greater chance of success if they said their sister had an epileptic fit on the plane and bled to death from biting her tongue. This was repeated later in the



---

programme with the character claiming that it got him a job. Ms. Browne states there is no justification for using epilepsy in this context.

She states the term 'fit' is no longer used and one cannot bleed to death from related tongue biting. This promotes ignorance of the condition and aids in its continuing to be stigmatised. A subject can be satirised without misuse of epilepsy. People with this condition should not be subject to mockery. This would not be tolerated for any other type of disability and the same rules of decency and respect should apply to epilepsy

**Station's Response:**

RTÉ states that the *Savage Eye* is a comedy series which examines contemporary values and institutions and subjects them to satirical and at times farcical send-ups. Each programme consists of a number of sketches linking a particular theme. The theme in the programme broadcast on 14 December was *why are the Irish happy to be unhappy?*

The sketch involved the *President for Life of Ireland*, a character resembling former President Mary Robinson who appears in most of the episodes. She is depicted in Aras an Uachtaráin giving advice to an African man who is being coaxed in how to be an Irish person.

The President advises her pupil that he must always temper any good news with bad news if he wishes to be Irish. Some examples are forthcoming. The African man, called Adgibowe says ... *I'm very happy because I got a job promotion.* The President advises him that he must have some bad news first. So Adgibowe tries again ... *My sister cut her fingers, but I am very happy to have got a job promotion.* The President advises Adgibowe that more misery is needed. So Adgibowe tries again ... *My sister had an epileptic fit on a plane, she bit off her tongue, there was no medical help, so she bled to death but I am very happy I got a job promotion.* The President praises Adgibowe and says ... *You're most welcome to Ireland and you've integrated and understood fully the Irish condition.* In the next sketch Adgibowe tries out this line in a pub when asking for a drink and is welcomed by a xenophobic barman.

Ms. Browne believes this sketch breaches taste and decency considerations as defined in the Code of Programme Standards. RTÉ disagrees. RTÉ believes the sketch was well within the grounds of what is acceptable in a satirical show which is sending up attitudes and values. Viewers do not believe, as Ms. Browne seems to think, that what is said about the airplane accident could possibly be true. It is simply given as an exaggerated example of the kind of misery which must preface good news if the Irish predilection for misery is to be satisfied. No one is stigmatised by this joke. It is not an indication of a lack of respect for people with epilepsy. It is simply a joke about an African man imitating Irish people's preferences for bad news over good news, a condition examined at length throughout the programme.

**Decision of Compliance Committee:**

The Committee has considered the broadcast, and the submissions of the complainant and the broadcaster. The complaint concerns the programme *The Savage Eye*. The Committee noted that the series consists of episodes in which a satirical look is taken at issues of relevance to Ireland. The issue that was explored in this particular episode, which is the subject of this complaint, was '*why are the Irish happy to be unhappy?*' In the subsequent broadcast, a number of reasons were explored in a satirical



---

fashion such as begrudgery, British rule, the famine, the Catholic Church, the Irish love of sad stories and so forth.

The Committee noted that the broadcast was preceded by a warning. The viewer was informed by the continuity announcer, that *'.....why are the Irish happy being unhappy, it won't be pretty, The Savage Eye'*. Further, the format and type of pending content was evident in the opening sequences. The voice-over at that start included. *'Ireland a land of complex questions and simple people, over this little place we cast The Savage Eye'*. A number of snippets of interviews with people stating why they believed Irish people, including themselves, loved misery. Therefore, it was clearly evident from the start of the piece that it was satirical. Audiences would be aware that with such genre of programming, facets of Irish life are, and can expect to be, subjected to parody. While such humour may not appeal to all tastes, the Committee must respect the right to freedom of expression.

On viewing this broadcast, the Committee could not determine that the particular sketch, which is the subject of this complaint, was unduly offensive or demeaning to people with epilepsy. The Committee noted that the content of the sketch is as detailed in the broadcaster's response (refer section titled Broadcaster's Response). The regular programme character, the 'President for Life of Ireland', is teaching a recent immigrant on how to be 'Irish'; he must qualify any good news with bad news, and the worse such bad news is, the better. He is then seen mastering his 'Irishness'; on entering a pub the locals are initially unreceptive, but then his tale of misery wins them over quickly. The theme of this sketch was in keeping with the theme of the entire broadcast; Irish people have a penchant for misery. It is this facet of Irish life that was parodied. It was evident from viewing the broadcast that the humour was actually directed at an Irish attitude; it was a parody on 'Irishness'. The Committee was of the view that it would not be reasonable to infer that the content was in anyway demeaning of, or disrespectful to, people with epilepsy.

While the Committee would acknowledge that the humour may not appeal to all, such lampooning of facets of Irish society is a widely recognised genre of programming, one which can be hard-hitting. Given the scheduling, the use of a warning prior to broadcast, the nature of the series and regular viewers' expectations, the Committee found that the material broadcast was unlikely to cause undue offence. There was also no evidence of any intent to gratuitously offend or stigmatise people with epilepsy. The complaint was rejected with regard to the Code of Programme Standards, sections 3.4.1 and 3.4.3 persons and groups in society.

[Back to index](#)