



BCC Complaint Decisions

April 2008

The Board of the Broadcasting Complaints Commission (BCC) met on 7 April to consider and/or adjudicate upon 23 complaints. Two complaints were upheld, five were deferred for further consideration and the other sixteen complaints were rejected.

Of the sixteen complaints rejected, one complaint decision is not being published; the nature and substance of the complaint was considered to be highly sensitive and there was no over-riding public interest concern.

The summaries of the 17 complaints on which full adjudications were made are detailed in this text.



Upheld/Upheld in part Complaints:

| No. | Yr | Name. | Category | Programme / Advertisement / Sponsorship | Station |
|-----|----|-----------------|--|---|------------------|
| 24 | 08 | Mr. T. O'Reilly | assertion of inaccurate facts that constituted an attack on a person's honour or reputation | Midlands Today (10 Jan 08) | Midlands Radio 3 |
| 48 | 08 | Ms. M. Whelan | taste & decency: Code of Programme Standards – due care, discriminatory, racist and highly offensive jokes | Open Mic (10 Feb 08) | FM 104 |

Rejected Complaints:

| No. | Yr | Name. | Category | Programme / Advertisement / Sponsorship | Station |
|-----|----|------------------|--|--|-------------|
| 15 | 08 | Mr. N.C. Jermyn | fairness, objectivity & impartiality in current affairs - unfair treatment of subject matter relating to a national report on hospital hygiene | Prime Time (13 Nov 07) | RTÉ One |
| 29 | 08 | Mr. I. Lynch | taste & decency: Code of Programme Standards - inappropriate discussion on sexual matters, explicit and vulgar & tasteless presentation and tone | The Inbox with Alison & Paul (28 Jan 08) | 98FM |
| 30 | 08 | Mr. P. Carroll | law & order - context of remarks likely to incite to crime | The Right Hook (15 Jan 08) | Newstalk |
| 34 | 08 | Mr. F. Cosgrove | fairness, objectivity & impartiality in current affairs – unbalanced & one-sided report | RTÉ TV News: Six One (29 Jan 08) | RTÉ One |
| 35 | 08 | Mr. F. Cosgrove | fairness, objectivity & impartiality in current affairs – unbalanced & one-sided discussion | Questions & Answers (30 Jan 08) | RTÉ One |
| 37 | 08 | Mr. J. Hughes | fairness, objectivity & impartiality in current affairs – unbalanced, inaccurate and sensationalist reporting | RTÉ TV News: Nine O'Clock (23 Jan 08) | RTÉ One |
| 40 | 08 | Mr. F. Cosgrove | fairness, objectivity & impartiality in current affairs – unbalanced & one-sided discussion and unfair presentation | Questions & Answers (4 Feb 08) | RTÉ One |
| 46 | 08 | Mr. W. Mongey | fairness, objectivity & impartiality in current affairs – unbalanced and partial reporting | RTÉ Radio News: News at One (11 Feb 08) | RTÉ Radio 1 |
| 49 | 08 | Mr. D. McManus | taste & decency: Code of Programme Standards - coarse & offensive language used by presenters during the programme | The Ray D'Arcy Show (8 Feb 08) | Today FM |
| 56 | 07 | Mr. D. Dolye | taste & decency: Code of Programme Standards - undue distress and unreasonably encroached on the privacy of an individual | RTÉ TV News: Six One (4 Feb 08) | RTÉ One |
| 57 | 07 | Mr. D. Dolye | taste & decency: Code of Programme Standards - undue distress and unreasonably encroached on the privacy of an individual | RTÉ TV News: Six One (4 Feb 08) | RTÉ One |
| 58 | 08 | Mr. R. Comber | taste & decency: Code of Programme Standards – factual programming, inappropriate visuals used of tackle during soccer match | RTÉ TV News: Nine O'Clock (23 Feb 08) | RTÉ One |
| 64 | 08 | Mr. C. de Barra | taste & decency: Code of Programme Standards – undue offence in treatment of religious sacrament | RTÉ TV News: Nine O'Clock (26 Feb 08) | RTÉ One |
| 67 | 08 | Mr. M. Henderson | taste & decency: Code of Programme Standards – inappropriate violent content for time of broadcast | TV3 Promo: trailer, film 'The Saint' (23 Feb 08) | TV3 |
| 75 | 08 | Mr. D. Doyle | taste & decency: Code of Programme Standards - undue distress and unreasonably encroached on the privacy of an individual | RTÉ TV News: Nine O'Clock (4 Feb 08) | RTÉ One |



Functions of the Broadcasting Complaints Commission

The Broadcasting Complaints Commission (BCC) is an independent statutory body. Its task is to consider and adjudicate upon complaints about material broadcast, both programmes and advertisements, in relation to: impartiality in news & current affairs; taste & decency; law & order; privacy of an individual; advertising codes; slander; published matter in relation to RTÉ; and Ministerial prohibitions.

Any viewer or listener can refer a complaint to the Commission if they are not satisfied about broadcasting content on an Irish broadcasting service under any of the above listed categories.

The Commission's remit is derived from various legislative acts, the most recent of which is the Broadcasting Act, 2001.

The Members of the Board of the Commission are:

Mr. Michael G. MacGrath (Chairperson), Mr. John Donohoe, Dr. Eucharía Meehan, Ms. Susan Nolan, Ms. Miriam O'Callaghan, Mr. Seán O'Sullivan, Mr. David Tighe

Upheld complaints:

Complaint made by: Mr. Thomas O'Reilly

Ref. No. 24/08

Station:

Midlands 103

Programme:

Midlands Today

Date:

10 January 2008

Complaint Summary:

Mr. O'Reilly's complaint, submitted under Section 24(2)(f)(an assertion of inaccurate facts or information which could constitute an attack on a person's reputation or honour) of the Broadcasting Act 2001, relates to the broadcast of a text message read out regarding dog fouling on a footpath.

The complainant states that between 11:15am and 11:59am a text message was read out stating that while a Town Councillor was talking to the Litter Warden, the Councillor's dog fouled the footpath and both parties then walked away. The presenter of the programme identified the town as Birr, Co. Offaly. Mr. O'Reilly states he is the litter warden for Birr town and he found this statement had the effect of amounting to an attack on his reputation and honour.

Station's Response:

Midlands 103 states that the information as broadcast is true and accurate and the witness who relayed the events to the station is prepared to verify this. Midlands 103 further state the Mr. O'Reilly, who never contacted the station about the issue, accused the station of broadcasting inaccurate facts or information that could amount to an attack on his reputation and honour. Midlands 103 considers this an extremely serious allegation and their response and subsequent publication of same, may be the subject of future dispute. Midlands 103 therefore believe it is inappropriate to comment further.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that the complaint relates to a text message read out on air by the presenter during the Midlands Today programme. The text message was as follows, *'Ken, on a different topic altogether, says he's just sitting in his car and he notices that a local Councillor was chatting to a Litter Warden and the Councillor's dog does his business on the path. So what happens? Both men go [whistles] and walk away. No wonder there's dog litter all over the town. What town are we talking about? Birr, that's where Ken says he is this morning'*.

The Commission noted that the details as broadcast made the complainant readily identifiable in the locality. The Commission also noted that the comments made were a direct criticism and comment on the work of the complainant. The Commission would acknowledge that no names were mentioned. However, the work of a Litter Warden was commented on and the locality of where he worked was clearly stated. The complainant was therefore easily identifiable in his locality. In assessing this complaint, the Commission had to have regard to the occurrence of an *'assertion of inaccurate facts or information in relation to that person which constituted an attack on that person's honour or reputation'*.

The onus is on the broadcaster to take measures to ensure it does not broadcast inaccurate material which could constitute an attack on a person's honour or reputation. Therefore, the Commission is of the opinion that the broadcaster should be able to substantiate the facts stated on air. On this occasion, the facts stated were that the Litter Warden had not dealt with the Councillor whose dog had fouled the street and as a result, *'no wonder there's dog litter all over the town'*. The Commission is of the opinion that the broadcaster has not satisfactorily proven that they exercised due diligence in broadcasting the text message. The broadcaster did not sufficiently validate the evidence of the claim broadcast for the Commission.

Given the local nature of the service, the clear identification of the complainant and the assertions made about his work, coupled with the insufficient substantiation of the facts by the broadcaster, this broadcast infringed the broadcasting regulations in relation to a person's reputation. The broadcaster should have exercised greater care during the programme. The complaint was upheld with regard to Section 24(2)(f)(a complaint by a person that in a broadcast by a broadcaster which is specified in the complaint an assertion was made of inaccurate facts or information in relation to that person which constituted an attack on that person's honour or reputation).

Complaint made by: Ms. Mary Whelan

Ref. No. 48/08

Station:

FM 104

Programme:

Open Mic

Date:

10 February 2008

Complaint Summary:

Ms. Whelan's complaint, submitted under Section 24(2)(d)(taste & decency: Code of Programme Standards, sections 2.2 due care and 3.4.1 & 3.4.2 persons and groups in society) of the Broadcasting Act 2001, relates to the broadcast contents on the Open Mic show. Ms. Whelan states that jokes which were aired were deeply offensive; in particular, one about black children and another about the abduction and by implication, rape and murder of a child by a paedophile. Ms. Whelan states that although the jokes were told by members of the public, the show's host did nothing to prevent or discourage the callers. Not only were the jokes offensive but they trivialised child abuse and could be an incitement to racial hatred.

Station's Response:

FM104 thank Ms. Whelan for bringing the matter to their attention and apologises on behalf of everyone at the station, including the presenter of this programme, for this material which should not have been broadcast under any circumstance. FM104 has taken the matter very seriously and disciplinary proceedings have commenced with the broadcaster concerned. In addition, Tim Fenn, Managing Director of FM104 states that if the complainant makes contact with him, he would be happy to reiterate his thanks and apologise to her directly.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint relates to two particular jokes that were broadcast live on air on FM104. One of the jokes was about paedophilia and the other, about a black baby. In the course of the programme, the presenter encouraged listeners to call in with jokes. The Commission noted what the caller Michelle had said before she told the joke about the black baby;

Michelle: *don't know if I can say the other one?*

Presenter: *you don't know if you can say it?*

Michelle: *yeah, it's a little bit you know, controversial.*

Presenter: *How, in what way?*

Michelle: *Ok, I'll just say it anyway.*

Michelle proceeded to tell a highly racist and derogatory joke. The Commission noted that it was evident when she said the opening line of the joke, which was a 'question', that the punch-line was likely to be racist and unacceptable. However, the presenter did not intervene. He then reacted to the punch-line in a light-hearted manner, *'ooh, very controversial, we're going to get in big trouble here [giggling as speaks]. Good luck Michelle'*. The Commission noted that the presenter's reaction to the joke about paedophilia was similar.

In assessing this complaint the Commission had to have regard to whether the broadcaster exercised due care with what was broadcast and also, that the material did not condone or support discrimination against any person or section of the community. The content of both jokes was likely to cause widespread offence.

The joke about the black baby was totally derogatory and highly offensive. In the opinion of the Commission, that content was inappropriate and totally unsuitable for broadcast at any time in the schedule. The Commission noted that the broadcaster has apologised for the content and also, has commenced disciplinary proceedings. The Commission welcomes these actions.

By permitting such jokes on air, the broadcaster did not exercise due care to ensure that listeners were protected from undue offence. Further, the content was totally discriminatory and derogatory and could be considered to condone discrimination against a section of the community based on race. The complaint was upheld with regard to Section 24(2)(d)(taste & decency: Code of Programme Standards, sections 2.2 due care and 3.4.1 & 3.4.2 persons and groups in society).

Rejected complaints:

Complaint made by: Mr. Nicholas C. Jermyn

Ref. No. 15/08

Station:

RTÉ One

Programme:

Prime Time

Date:

13 November 2007

Complaint Summary:

Mr. Jermyn's complaint, submitted under Section 24(2)(a)(fairness, objectivity and impartiality in current affairs) of the Broadcasting Act 2001, relates to an item broadcast on Prime Time about hygiene standards in hospitals. The complainant believes that the programme was unfair to St. Michael's Hospital in Dun Laoghaire and St. Vincent's Hospital in Dublin. Mr. Jermyn states that from the time St. Vincent's Healthcare Group (SVHG) was alerted by Adrian Lydon of Prime Time, that it was going to highlight an individual complaining about hygiene at St. Vincent's University Hospital (SVUH) in the context of the Health Information and Quality Authority (HIQA) national review, it was pointed out that they felt this was unfair treatment, particularly as SVUH is in the top group of hospitals in the HIQA ratings. The report, as shown on Prime Time, confirmed their concerns. Its use, at a time when there was national attention on hygiene audits, created an unbalanced focus on SVUH. The use of an individual random complainant is a distortion of the presentation of the achievements of the hospital.

Mr. Jermyn states that a photo of cabling being installed was used as 'evidence' of poor hygiene practices even though SVHG had explained to the reporter that the installation of these cables through the specifically chosen window frames, was a decision made under the direction of the hospital's infection control. The featured complainant was made aware of what they were doing at the time (i.e. installing TVs for patients' enjoyment) and yet she still chose to put this forward as some form of 'evidence' of a standard breach by the hospital and it was accepted by Prime Time despite their explanation. To compound matters the report started by singling out St. Michael's Hospital, Dun Laoghaire as 'among those at the bottom of the table'. Mr. Jermyn points out that they do not believe that this was a deliberate choice. However, the net effect for the viewers, including various stakeholders in SVHG, from patients and staff to various others, is the same. In essence, on a day when a national survey was issued covering 51 hospitals, a Prime Time report chose to negatively highlight only two, both constituent hospitals of SVHG.

Station's Response:

RTÉ state in their response that the programme included an account of recently published research into hospital cleanliness. Fifty one hospitals were surveyed. The results were divided into four categories, very good, good, fair and poor. Nine hospitals were found to be in the category 'poor'. One of these was St. Michael's Hospital, Dun Laoghaire. This information was carried in a piece-to-camera by a reporter standing outside the front of St. Michael's hospital. The other eight hospitals in this category were included in a graphic. This was the only reference to St. Michael's hospital in the report. It is RTÉ's contention that there was nothing inaccurate broadcast about St. Michael's hospital. St. Michael's hospital may have wished that equal attention be given to the other eight hospitals in the 'poor' category. However, in a short report it simply is not possible to give equal prominence to all hospitals.

RTÉ further state that there were more extensive references in the report to St. Vincent's Hospital. The report included an interview with Mrs. Bridie Connolly, a former nurse, whose husband had died in St. Vincent's. During the course of her interview she stated that the hygiene standards she found in the room in St. Vincent's where her husband was placed, were very poor. She spoke of finding a bowl with vomit in the room from a previous patient, that the locker in the room contained used tissues and that the room had not been cleaned.

St. Vincent's Hospital representatives asked that the broadcast report should include the findings that the hospital had been rated in the findings on hygiene as in the 'good' category (there were no hospitals judged to be in the 'very good' category). This information was included in the report.

RTÉ reiterate that a report of less than seven minutes duration cannot be comprehensive. The report included a range of contributors who provided viewers with an overview of the problem. There was no emphasis on either of the two hospitals named in the complaint. The report prefaced a studio discussion about the problem in general.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. This particular broadcast of Prime Time dealt with a report on hygiene in Irish hospitals published by the Health Information and Quality Authority that day. The introduction to the discussion by the presenter included: *'...Today, it was pretty bad news for all of us in terms of how clean or rather how not clean our hospitals are. This is of particular concern of course in the context of fear about hospital acquired super-bugs like MRSA that can, and often do, prove fatal. A report published this afternoon by the Health Information and Quality Authority on hygiene in our 51 hospitals makes for fairly grim reading. This report from Adrian Lydon.'* The programme makers decided to look at the results of a critical report. This is a legitimate editorial decision to make. What is of importance to the Commission is that the item was presented in a fair and balanced manner.

In the report from Adrian Lydon, he presented a summary of the details of the hygiene audit results. In his introduction he informed the viewer that *'In all, 51 hospitals were assessed, right across the country. Of those, not a single one was deemed to be very good. Just 7 achieved a rating of good, while the majority, 35 were classed as fair. 9 of them were characterised as poor'*. The report included contributions from the Director of the Health Information and Quality Authority and a Consultant Microbiologist of the Health Protection Surveillance Centre. Both explained what they believed was the background to the results of the hygiene audit: *'the majority fell down in the extent to which they were planning, managing and monitoring performance in this area to ensure that they sustain that improvement and that's what took people's scores down..'* and *'the infection control and hospital hygiene have traditionally not been seen as the responsibility or a key point of a hospital's strategy at most senior management level...'*

The report did include a clip of the presenter standing outside St. Michael's Hospital as submitted by the complainant. In the clip the reporter stated; *'Among the hospitals at the bottom of the hygiene league table is St. Michael's here in Dun Laoghaire. But the overriding message from today's report is that all hospitals can and should be doing a lot better...'*

The contribution from Mrs. Connolly included a reference by her to work being carried out in the hospital room occupied by her husband. In the introduction to the item the reporter stated; *'...where he [Mrs. Connolly's husband] was transferred to isolation after contracting a hospital infection'*. Mrs. Connolly stated; *'My daughter and I were astounded the night he was transferred into this room because in the sink there was a bowl with vomit in it and the locker had hankies and paper towels, so the room had not be cleaned. One day there was drilling done into my husband's room and 13 pieces of flex put through the hole'*.

The reporter then informed the viewer that; *'In response, St. Vincent's hospital said it dealt with Mrs. Connolly's complaints at the time and reminded us that today it had been rated among the top hospital in the hygiene audit'*.

Following the report, a studio discussion took place with a panel, which included a spokesperson for the MRSA & Family Network, the Assistant National Director of Population Health – Health Protection, HSE and a Consultant Microbiologist.

The clip of St. Michael's hospital and the contribution from Mrs. Connolly must be seen in the context of the entire broadcast. In covering those hospitals categorised as poor, the programme-makers filmed a clip outside St. Michael's hospital. The programme-makers were entitled to make such an editorial decision. What is important to the Commission is that the subject matter was treated fairly and objectively. St. Michael's had been categorised as poor in the report. Therefore, it's inclusion in the broadcast was factual and accurate. In the piece to camera outside the hospital, the reporter informed the viewer that all hospitals *'can and should be doing a lot better'*. The focus was not solely on St. Michael's. The Commission also noted that all nine hospitals categorised as poor were identified in the course of the broadcast. A graphic of a map of Ireland, showing the name and location, clearly identified the nine hospitals for the viewer.

The contribution from Mrs. Connolly was from the perspective of the public, the human-interest aspect of the subject matter. She spoke about her experiences. The Commission noted that she spoke specifically about the lack of cleanliness of the isolation room into which her husband was moved. She also referred to the fact that drilling was undertaken in the room as submitted by the complainant. However, on watching the broadcast the Commission was of the view that she mentioned the drilling in the context of how her husband was treated even though he was seriously ill. The isolation room he was moved into had not been cleaned and over the course of his stay, drilling work was carried out. Irrespective of the reasons for the work, the Commission would acknowledge the sensitivity of Mrs. Connolly in relation to such works given the circumstances. The Commission also noted that Mrs. Connolly's statement about the room and the drilling was preceded by the reporter reading a statement from St. Vincent's Hospital.

In a programme on hospital hygiene, one could expect that the public's side of the story would feature. The Commission is of the opinion that Mrs. Connolly's inclusion in the report was as such; i.e. a member of the public who had experienced the effects of hospital hygiene. Her experience was used as an example of the wider issue. The focus was on her experience. St. Vincent's was informed of Mrs. Connolly's participation and was given a fair right of reply.

On viewing the broadcast, the Commission was of the opinion that the subject matter was treated fairly. The broadcast was factual and presented a fair and objective report and discussion on the issue of hospital hygiene. The references to St. Michael's and St. Vincent's hospitals were in this context. The references were factual and accurate. The Commission noted that the focus at all times was the hygiene audit. The viewer was informed of the audit on a country-wide basis. The Commission was of the view, that it was evident that St. Michael's and St. Vincent's were incidental to the main focus of the programme. The broadcast clearly articulated that the issue of hospital hygiene was a national one. It identified the numbers in each of the categories and also, identified all nine hospitals that were categorised as poor.

The broadcast dealt with the issue of hospital hygiene in a fair and impartial manner. The subject matter was discussed in a national context and explored in a fair and balanced manner. There was no evidence of unfair treatment of the subject matter. There was also no evidence of editorial bias. The complaint was rejected with regard to Section 24(2)(a) (fairness, objectivity and impartiality in current affairs).

Complaint made by: Mr. Ivan Lynch

Ref. No. 29/08

Station:

98FM

Programme:

The Inbox with Alison and Paul

Date:

28 January 2008

Complaint Summary:

Mr. Lynch's complaint, submitted under Section 24(2)(d)(taste & decency: Code of Programme Standards, section 3.2.1 sexual conduct) relates to an item broadcast at approximately 9.40 p.m. featuring a "sex therapist", who works for Hot Press magazine, giving her "tips" in the form of an on-air conversation with the two presenters.

The complainant states the sex therapist started her piece by relating how she was in bed with her then boyfriend, who she had tied up and blindfolded. She then went on to say that she proceeded to give him a "hand job", but noticed that each time she touched him he flinched, because her hand was so cold. The conversation went on to include the use of leather gloves, words like "balls" and "sex toys" and having orgasms with the help of goat weed.

Mr. Lynch states the liberal use of offensive language was bad enough, but to be using the airwaves to discuss what is a private and intimate act between two adults, in a deliberately vulgar and tasteless manner, was beyond his comprehension.

Station's Response:

98FM states that the show is aimed at their core audience of 25-39 year olds and deals with some topics that are clearly aimed at an adult audience. While the show may discuss these items, it is not explicit or intended to shock. The guest appears on the show once per month. She is a sex columnist with Hot Press magazine, is clearly introduced as a sex columnist and the themes and topics discussed with her are usually of an adult nature. This is part of the reason her segment does not run until well after 9 p.m..

While 98FM regrets any offence caused, they would also like to point out that there have been no other complaints about the item. Sex and relationships form an important part of adult life, 98FM is a station that is aimed at adult listeners in Dublin. It is, therefore, appropriate that these topics be discussed. While the tone of the discussion in question may have been light-hearted, the earlier part of the hour had tackled quite a serious subject without any attempt at sensationalism.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint concerns a discussion with a sex therapist. One of the presenters informed the listeners that the main theme of the discussion during this particular broadcast would be '*how to warm things up in the bedroom over the winter season*'. The subsequent discussion included sexual references and ideas for foreplay as submitted by the complainant. A broadcaster is entitled to address such sexual issues in its programming. What is important to the Commission, is that the broadcaster does so with due regard to the Code of Programme Standards.

The Commission's assessment of the complaint must include the time of broadcast and the target audience. The Commission noted that the discussion was broadcast in the night-time schedule. The Commission also noted that the sex therapist is a regular feature on the programme. Regular listeners would therefore expect topics of a sexual nature to be addressed. While the Commission acknowledges that some listeners may find such material distasteful, it is permissible content if presented with due care. On hearing the broadcast, the Commission was of the view that the subject matter was treated responsibly, with no evidence of gratuitous or sensationalist content. The humour, which was evident throughout the discussion, was a reflection of the ease and informality with which the presenters and the regular contributor to the show discussed sexual issues. The broadcast was a matter of fact discussion about sexual issues; the whole tenor of the piece was to provide the listener with advice on sexual matters.

Given the time of broadcast, the audience expectations and the non-gratuitous manner in which the subject matter was treated, the content of the discussion was editorially justified and within acceptable standards. The complaint was rejected with regard to Section 24(2)(d)(taste & decency: Code of Programme Standards, section 3.2.1 sexual conduct).

Complaint made by: Mr. Paul Carroll

Ref. No. 30/08

Station:

Newstalk 106-108 fm

Programme:

The Right Hook

Date:

15 January 2008

Complaint Summary:

Mr. Carroll's complaint, submitted under Section 24(2)(b)(law and order) of the Broadcasting Act 2001, relates to the broadcast of inappropriate comments by the presenter during a discussion on the release of Wayne O'Donoghue from prison. George Hook made two very inappropriate comments which the complainant believes are in and of themselves, worthy of censure. He also believes that the context in which they were made makes them even more serious. Mr. Carroll states that there was widespread coverage of the release of Wayne O'Donoghue in the print and broadcast media that day and much speculation as to whether Mr. O'Donoghue could safely return to his home or whether he might be the victim of violent retaliation.

Mr. Hook referred to the "murder" of Robert Holohan and allowed some contributors to refer to "murder". This was not a case of murder as is clear from the judgement and any reference to the possibility of murder by Mr. Hook or by contributors, was clearly likely to inflame passions. Any responsible broadcaster should have appreciated this. One caller was allowed to state that "there is a thin line between murder and manslaughter". Mr. Carroll acknowledges there can be, however, in some cases manslaughter can be at the other end of the spectrum from murder and it has been established by a court of law that this was so in this case. The complainant believes there should have been a legal expert on to make this point and correct the caller's misunderstanding. Mr. Carroll further states that Mr. Hook said if he was the father of a child who was killed he would gladly take matters into his own hands and "do his time". This is an outrageously inflammatory remark in circumstance where there are genuine fears for the safety of Mr. O'Donoghue. Mr. Hook allowed another contributor to make similar comments. The seriousness of these comments in these circumstances cannot be overstated and can surely be regarded as an incitement to violence.

Station's Response:

Newstalk 106-108 state that the first part of Mr. Carroll's complaint refers to a relatively new segment in The Right Hook programme where the presenter talks to listeners on matters of public interest. While it is the norm to have highly qualified and informed contributors as guests, it is also worthwhile from time to time get the opinion of regular listeners from around the country.

Mr. Carroll complains that George Hook referred to the "murder" of Robert Holohan and allowed some contributors to refer to "murder". He also states "far more seriously", Mr. Hook stated that if he was the father of a child who was killed he would gladly take matters into his own hands and "do his time". Newstalk 106-108 at this point wishes to draw attention to an opinion piece that George Hook read out just before six o'clock and to which Mr. Carroll made no reference. The piece is critical of the Evening Herald newspaper and it's Editor who had appeared on a television programme the night before and claimed that his reporters would pursue Wayne O'Donoghue until he had decided the story had run its course. In the piece, George Hook makes clear that he is standing by the constitution and the civil rights

it enshrines. He also makes clear that even though the administration of justice and the rights it confers can lead to uncomfortable situations; this is a price worth paying. George Hook goes on to say that once a person has been convicted under the justice system and served the sentence handed down, that that should be the end of the matter.

Newstalk 106-108 further submits the Opinion Piece by George Hook, 15 January 2008 as follows:

“Ireland is a democracy and a country that guarantees the civil rights of its citizens. It can be uncomfortable like champagne and high heels there is often a price to be paid. Thus today, a Mr. C. walked free, although accused of heinous crimes because his rights under the constitution are inalienable. Tomorrow, Wayne O’Donoghue will leave prison having served three years for the manslaughter of Robert Holohan. He will be a free man in theory, but as his solicitor pointed out, it is unlikely that he can ever again live in Ireland. However, even if his fellow citizens and democrats could find it in their hearts to forgive him there will be no generosity from the Evening Herald, whose Editor declared that O’Donoghue had lost his right to privacy because he was a convicted criminal.

Nowhere does the constitution delineate who is entitled to its protection. It is a right of all citizens irrespective of race, creed or gender. The constitution also protects tax defaulters, fraudulent solicitors and young men guilty of manslaughter. For the newspaper, the sentence for manslaughter is life rather than a fixed term. O’Donoghue will be followed by cameras and reporters until the Editor decides that the story has run its prurient course and no longer has circulation value. O’Donoghue, like the other young men who paid with a jail term for a moment of madness will never be able to celebrate a birthday, have a girlfriend or apply for a job without the worthy newshounds from Talbot Street bleating about this criminal attempting to have a normal life. Wayne O’Donoghue has a right to hope that when the heavy gates of Portlaoise close behind him a terrible chapter in his life has also ended and he has paid his debt to society. Sadly, the Evening Herald seems to turn that principal on its head and deny an Irishman the right that Martin Luther King, Nelson Mandela and Mahatma Gandhi fought so hard to achieve for their fellow citizens.

Newstalk 106-108 claims that this piece is very important and cannot be omitted when discussing the subject in its totality. Following the news, several texts were read out covering a range of views. George Hook commented that a lot of people were texting in saying “fair play to the Herald – 3 years for murder is wrong”. However, the presenter then reminded people that Wayne O’Donoghue was convicted of manslaughter and not murder. Caller Darren then spoke and claimed “there’s a fine line between manslaughter and murder”. Mr. Carroll concedes this can be the case. Newstalk 106-108 believes the caller in this case was entitled to his opinion and from the context of the conversation he simply disagreed with the sentence.

Newstalk 106-108 acknowledges that George Hook did say if he was the father of a child who was killed he would “do his time”. However, the context is important as George Hook was attempting to get across the raw emotion and initial reaction of all parents to an incident like this. This was followed by the presenter reading out several more texts for and against Wayne O’Donoghue and one reprimanding George saying “cop on George, espousing anarchy and lawlessness, luckily the vast majority of intelligent people no matter how hurt by crimes affecting their own family, realise there is a rule of law in civilised countries”.

Finally, after hearing and reading out texts diametrically opposed to this view, George Hook concluded by saying he understood where they were coming from but wanted to reflect the views of all parents, including the Holohans and O’Donoghues.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint relates to a discussion on the release from prison of Wayne O’Donoghue. The discussion was part of a listener phone-in section of the Right Hook show. The presenter informed his listeners that the phone-in that day was entitled '*The Hook opinion on Wayne O’Donoghue as he leaves prison.*' He then said, '*your chance for your opinion*'.

Prior to callers to the show, George Hook read out 'his opinion' as submitted by Newstalk. In this introduction, the presenter spoke about an article in the Evening Herald that asserted that given the crime he had committed, Mr. O’Donoghue had no right to privacy. The presenter then asked the listener to consider a person's constitutional rights. This was followed by a number of callers who participated live on air and the presenter also read out numerous texts. On hearing the item, the Commission was of the view that both sides of the argument were given a fair hearing. There were callers who believed that he had a right to privacy. He had served his sentence. Then there were others who believed his sentence was insufficient and that he was not entitled to privacy.

On the issue of the use of the word murder, the Commission noted that when this was used the presenter actually addressed the situation. When the caller made the statement, Mr. Hook interrupted immediately and stated, '*remember he wasn't convicted of murder, he was convicted of manslaughter*'. One participant did proffer the opinion that he believed there was a '*fine line between murder and manslaughter*'. This statement was one of opinion and could not in itself determine that the content of the broadcast was inappropriate. The Commission noted that the word 'killed' was used by another caller. On hearing the broadcast, the Commission was of the view that the use of the word murder was not permitted by the presenter as submitted by the complainant.

The subject matter was a highly emotive one and the discussion included consideration of the human-aspect of the issue. Sympathy was expressed for both families involved and several references were made to how the parents must be feeling. In response to one of the callers asking, '*what about the victim's parents. Imagine how they must feel?*', the presenter stated, '*I have three children and if anybody laid a hand on them, I'd swing for them and serve my time*'. A subsequent

caller took the presenter to task on this and said that if everyone was to swing for their own kids, there would be no rule of law. The presenter also read out a text message telling the presenter not to be pushing anarchy.

On hearing the statement, the Commission noted that it was made in the context of the human-side of the story. We all want to protect our own and make sure nothing bad happens to them; it was the expression of the emotive re-action a parent may have rather than an incitement to commit crime. The Commission also noted that the tone was moderate. While the Commission would acknowledge that the statement was inappropriate and preferably should not have been made, it was highly unlikely to incite a person to crime.

On hearing the entire discussion, the Commission was of the view that the presenter dealt with a highly emotive issue in a responsible and balanced manner. The presentation and tone throughout was moderate. There was no evidence of content that would incite a person to commit a crime. The Commission rejected the complaint with regard to Section (2)(b)(law and order).

Complaint made by: Mr. Frank Cosgrove

Ref. No. 34/08

Station:

RTÉ One

Programme:

Six One News

Date:

29 January 2008

Complaint Summary:

Mr. Cosgrove's complaint, submitted under Section 24(2)(a)(fairness, objectivity and impartiality in current affairs) of the Broadcasting Act 2001, relates to an item broadcast on the Six One News. Mr. Cosgrove states that the Minister for Justice, Equality & Law Reform was interviewed on the Government Bill on Immigration. Later in the programme Ms. Denise Charleton, Chief Executive of the Immigrant Council of Ireland, was interviewed at length. The complainant claims that none of Ms. Charleton's opinions were challenged because RTÉ did not have someone with opposing views to represent that part of the public that do not agree with her. Mr. Cosgrove believes that this is a total failure on behalf of RTÉ to provide impartial broadcasting.

Station's Response:

RTÉ in their response states that the item was introduced by the presenter saying that the proposed Bill contained new rights for immigrants, but also tougher controls for those arriving and that the Minister for Justice, Equality & Law Reform had described the Bill as *landmark legislation*. The Minister for Justice, Equality & Law Reform, Brian Lenihan, was interviewed briefly and a response from Denise Charleton, Chief Executive of the Immigrant Council of Ireland and from Pat Rabbitte of the Labour Party followed. A studio interview with Ms. Charleton took place in which she was asked about her organisation's response to the Bill.

RTÉ does not believe it was necessary to "balance" the interview with Ms. Charleton by including someone with opposing views. Neither the report nor the studio interview carried any editorialising by RTÉ journalists. The report was a factual account of what had happened. The studio interview simply asked Ms. Charleton for her organisation's reaction to the Bill. As the Bill had just been published it would have to go through a lengthy parliamentary process. During this period political parties, lobby groups and individuals who have views about the merits of the Bill will have opportunities, both within the Oireachtas and in the media, to make their views known. It is simply a misunderstanding of News reporting process that there is some natural right to hear one's particular opposing views articulated on the day in which the Bill is published. RTÉ will, over the coming months, carry extensive reportage, analysis and debate on the merits or otherwise of this Bill. There has been legislative recognition for more than 30 years, that balance can be achieved over one or more related programmes. In the case of proposed legislation, that balance is achieved over a number of months, not on the evening of publication of a Bill.

Whilst recognising that there will be more reporting and analysis to come which will include, if it is articulated, opposition to the Bill on grounds other than those identified by Ms. Charleton, RTÉ believes that the early reporting of the Immigrant Bill was fully compliant with all statutory obligations in regard to impartiality.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The news item covered the publishing of an Immigration Bill by the Department of Justice. There was a report on the item in the first section of the programme, and later, a short interview with the Chief Executive of the Immigration Council of Ireland, Ms. Denise Charlton. The news reader's introduction to the item included: *'New rights for immigrants, also tougher powers to control immigration are included in new legislation published today. The Minister for Justice, Brian Lenihan, described the Bill as landmark legislation. But he was criticised for falling short of the coalition party's programme for Government'*. During the report, the reporter gave background information on the Bill and informed viewers that the Bill had been criticised for not including a commitment given in the programme for Government. The report included contributions from the Minister of Justice, Equality & Law Reform and the Labour Party's spokesperson on Justice.

Later in the news, Brian Dobson interviewed the Chief Executive of the Immigration Council of Ireland. He asked her to inform the viewer of the aim of the Bill and about the current system in place. He then queried the extent to which the Bill dealt with the current system. Her responses included;

- aim of Bill - *'the Bill is an attempt by Government to set out comprehensive immigration reform' and 'make the system accountable and fair'*;
- current system - *'system is not clear'*; and
- views on proposed Bill; *'there are some things that are very welcome.....but the programme for government listed a commitment to an opportunity for independent review. It's not in the Bill as published'*.

Brian Dobson then stated: *'But Brian Lenihan has said, or a spokesperson for him has said this evening, that is something he intends to do as Minister'*. The interview concluded with the viewer being informed that the Bill had to go through the Oireachtas, which would provide an opportunity for debate. Ms. Charlton concurred and asked that all government parties and all vested interests actively participate. She said it was important that all opinions were heard.

The broadcaster chose to cover the publication of the Bill and also the fact that it had received a negative reaction in some quarters. Such an editorial decision lies with the broadcaster. What is of importance to the Commission is that the report was objective and impartial. The subject matter was about the publication of a Bill and not about the issue of immigration per se. On viewing this news report, the Commission was of the opinion that it was factual and objective. The viewer was informed about the publication of the Bill and its purpose. A large part of the report and the interview dealt with the aims of the Bill and the current system in place. It is common practice that such reports include experts in the field in which a Bill is published. On this occasion, the Minister for Justice, Equality & Law Reform, the Labour Party Spokesperson on Justice and the Chief Executive of the Immigration Council of Ireland contributed. A viewer could expect such contributions on the publication of an Immigration Bill.

The Commission also noted that the report included a response on camera from the Minister of Justice, Equality & Law Reform regarding Ms. Charlton's claim that the

Bill did not include a commitment in the programme for Government. Also, later in the interview with Ms. Charlton, Brian Dobson informed the viewer that the Minister for Justice, Equality & Law Reform intended to address the specific issue she raised. In the opinion of the Commission, the broadcast was impartial and objective. There was no evidence of editorial bias in this broadcast. The complaint was rejected with regard to Section 24(2)(a)(fairness, objectivity and impartiality in current affairs).

Complaint made by: Mr. Frank Cosgrove

Ref. No. 35/08

Station:

RTÉ Radio 1

Programme:

Morning Ireland

Date:

30 January 2008

Complaint Summary:

Mr. Cosgrove's complaint, submitted under Section 24(2)(a)(fairness, objectivity and impartiality in current affairs) of the Broadcasting Act 2001, relates to an item broadcast on Morning Ireland. The complainant states that the subject of the Immigration Bill was discussed and an interview with a Mr. Brophy, Solicitor, was broadcast. Mr. Brophy acts for immigrants and one would expect his views to be pro-immigration. Mr. Cosgrove believes RTÉ failed to put the other side of the argument. The bias in favour of any argument should be balanced by an opposing view.

Station's Response:

RTÉ in their response states that the item in question was an interview with Mr. Kevin Brophy, a Solicitor who has represented immigrants. It is RTÉ's argument that this was simply a first early reaction to the Bill. Morning Ireland will carry more interviews and reports on this Bill, as it goes through its parliamentary process. The interviewer, Cathal MacCoille, did not express any of his own views. He simply put the appropriate questions to Mr. Brophy.

RTÉ further states that whilst recognising that there will be more reporting and analysis to come, which will include opposition to the Bill on grounds other than those identified by Mr. Brophy; the early reporting of the Immigrant Bill was fully compliant with all statutory obligations in regard to impartiality.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The news item covered the publishing of an Immigration Bill by the Department of Justice. The presenter's introduction to the item included, *'According to Brian Lenihan, the Minister for Justice, Equality & Law Reform, the new Immigration, Residence and Protection Bill, which was published yesterday, is a landmark piece of legislation, which will make clear a lot of things that are unclear at present. The Bill brings together in one process the business of deciding whether a person claiming refugee status can stay in the State and also, establishes a new status of longterm residency which will acknowledge the contribution, according to Brian Lenihan, that many migrants make to their adopted society. But the Bill has not pleased everyone, and one of those people not happy with its contents is Kevin Brophy...'* The presenter then introduced his guest, Mr. Kevin Brophy. He clearly informed the viewer that Mr. Brophy is a Solicitor who works in this area and that he had raised issues with the new Bill.

The presenter then asked Mr. Brophy *'the Bill as published, what concerns you?'* Mr. Brophy responded detailing his concerns, but he also clearly stated that he welcomed the Bill. In the course of explaining his concerns, the Commission noted that the presenter challenged the opinions put forward.

The broadcaster chose to cover the publication of the Immigration Bill and the fact that it had received a negative reaction in some quarters. Such an editorial decision

lies with the broadcaster. The subject matter was about the publication of a Bill and not about the issue of immigration per se. What is of importance to the Commission is that the discussion was objective and impartial. On hearing the discussion, the Commission was of the opinion that it was factual and objective. The presenter asked questions to elicit information on Mr. Brophy's views on the Immigration Bill. He did so in a fair and impartial manner. He also challenged the views put forward by Mr. Brophy. It is common practice that on the publication of such Bills, broadcasters discuss the content with experts in the relevant field. A listener could expect a contribution from a Solicitor working in the Immigration field on the publication of an Immigration Bill.

In the opinion of the Commission, the subject matter was treated in an impartial and objective manner. There was no evidence of editorial bias in this broadcast. The complaint was rejected with regard to Section 24(2)(a)(fairness, objectivity and impartiality in current affairs).

Complaint made by: Mr. John Hughes

Ref. No. 37/08

Station:

RTÉ One

Programme:

Nine O' Clock News

Date:

23 January 2008

Complaint Summary:

Mr. Hughes's complaint, submitted under Section 24(2)(a)(fairness, objectivity and impartiality in current affairs) of the Broadcasting Act 2001, relates to an item broadcast on the Nine O' Clock news. Mr. Hughes states that on the previous day, 22 January, one of the biggest drops in the Stock markets (ISEQ down 4.17%) had taken place. On the 23 January the ISEQ performed very well (-0.11%) as did the UK and American stock markets (DOW up 290 points or 2.5%). When the Nine O'Clock news was broadcast this information was known to the newsroom, yet the reporting tone was sensationalist, negative, totally at variance with the actual position and designed to create uncertainty and unnecessary worry for consumers. The complainant states that the tone of the news programme was totally negative and opposite to what had taken place that day. Mr. Hughes believes that the news item and the interview with George Lee was designed to create fear and uncertainty in the market. The item was unbalanced, inaccurate and presented in a sensational manner. The complainant is of the view that the Irish people deserve to receive unbiased and fair reporting of the actual position in a timely manner.

Station's Response:

RTÉ in their response states that the report Mr. Hughes referred to was by David Murphy and George Lee. Both these journalists are held in the highest regard and are viewed to be experts in their field.

RTÉ states that the specific news which led to Mr. Murphy's and Mr. Lee's report was an unprecedented decision by the Federal Reserve (the "Fed") in the United States to cut US interest rates. The Federal Reserve had made an unscheduled and unexpected cut in interest rates. The Fed was due to review rates the following week but broke outside its own timetable to reduce rates. The action by the Fed was the biggest cut in rates in 18 years at three quarters of one percent. It was bigger than any action by the Fed in the wake of the 9/11 attacks and an attempt to bring confidence back into the American market. Despite this intervention investors continued to exhibit fears about economic prospects and stock market indices did not indicate a return of investor confidence. RTÉ state that all this information was carried factually and accurately by David Murphy and George Lee. Mr. Hughes stated that the ISEQ only suffered a 0.11% fall on the day of the reports. David Murphy's package reflects that and said Dublin's stock market "avoided most of today's carnage" while shares elsewhere fell by up to 4.5%. In the report AIB's chief economist, John Begg, says the markets are being driven by "fear and negative sentiment". Veteran investor George Soros said the current situation "is very serious". Mr. Murphy's report and Mr. Lee's interview reflected what other commentators were saying about the activity in the financial markets.

It is RTÉ's view that the reporting of financial news on 23 January was at all times accurate and impartial and did not display any lack of objectivity. Developments in world stock markets since 23 January have confirmed that the analysis provided by David Murphy and George Lee was timely and accurate.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint concerns a report on stock market turmoil. The Commission noted the introduction to the report by the newsreader; *'Stock market turmoil continued for a third day with deepening concerns about the health of the world economy. Shares in New York have been volatile while most major European markets suffered significant losses. The headache for markets worsened following indications from the European Central Bank that it does not want to cut interest rates. David Murphy has the details'*. The introduction was factual and the subsequent report dealt with the issues referred to in more detail. The reporter informed the listener of what happened in the market that day. Again, the information was factual with no opinion expressed by the reporter. The report was followed by a studio discussion with RTÉ's Economist, George Lee. The Commission noted that this was also factually based bar the final question posed by the newsreader; *'so three days of turmoil George, are we looking at many more?'*

The complainant submits that the report was 'totally at variance with the actual position'. The Commission could not agree with the assertion. In the course of the broadcast, the listener was informed that the French and German markets saw shares fall *'by about 4½% each and people are worried that Europe is facing slower economic growth'*; *'In London stocks fell by 2%'*; in Dublin shares *'avoided most of today's carnage'*; *'shares seesawed in the US'* and the *'US stock market closed up, which was a rally. They were down most of the day, but by the end of the day they rallied up 2½%'*; and *'it is seen as a global liquidity crisis'*. The report included references to the major markets in Europe and to the American market. The main focus of the report was the volatility in the markets and the policy decisions on interest rates of the US Federal Reserve and the European Central Bank.

The US Federal Reserve had cut interests rate that day. There was speculation about how the European Central Bank would respond. The report covered volatility in stock markets, the divergent policies of the Fed and the ECB and the affect this had on the stock markets. The report included interviews with the investor George Soros and AIB's Chief Economist, John Begg. Both interviewees expressed concern with the differing approaches of the Central Banks.

On viewing this broadcast, the Commission was of the opinion that the report was factual and accurately reflected the financial situation at that time. Also, the tone and manner of presentation were at all times responsible and moderate. There was no evidence of sensationalism or intent to instil fear. The report informed the viewer in an objective and impartial manner on the state of the financial markets. There was no evidence of editorial bias in this broadcast. The complaint was rejected with regard to Section 24(2)(a)(fairness, objectivity and impartiality in current affairs).

Complaint made by: Mr. Frank Cosgrove

Ref. No. 40/08

Station:

RTÉ One

Programme:

Questions and Answers

Date:

4 February 2008

Complaint Summary:

Mr. Cosgrove's complaint, submitted under Section 24(2)(a)(fairness, objectivity and impartiality in current affairs) of the Broadcasting Act 2001, relates to an item broadcast on Questions and Answers about the draft Government Bill on Immigration.

He states the discussion on this topic was dominated by two Africans, one on the panel and the other in the audience, who were given a free run and all the time they wanted by the Chairman. On the other hand, when a member of the audience suggested that non-nationals, with criminal records, should be deported, they were summarily dismissed by Mr. Bowman.

RTÉ will argue that the Minister – who back-peddled continuously – provided the opposition. This was not the case. He states a significant section of the Irish population believe that it is long past time to tackle the immigration question and the first stage of that process must be open discussion. Back-peddling politicians or blathering journalists are not articulating the arguments for this section of Irish society.

Station's Response:

RTÉ states that the programme on 4 February consisted of two politicians, Micheál Martin T.D., Minister for Enterprise, Trade and Employment and Pat Rabbitte T.D., Labour Party Spokesperson on Justice. There were also two journalists on the panel, Michael Kelly, Deputy Editor of the Irish Catholic Newspaper and Eamon Delaney, Editor of Magill Magazine. The fifth panellist was Benedicta Attoh who is a member of the National Consultative Committee on Racism and Interculturalism. This panel were selected to field a number of topics put to them by a studio audience.

It is RTÉ's view that the panel was well balanced to cover this topic - the Government and Opposition were represented, the two journalists offered different perspectives. Ms. Attoh was primarily chosen to be on the panel because of her position on the racism committee. When the topic of the Bill was discussed, a range of views about the Bill were voiced. The question was asked by an African man who had been granted asylum in Ireland. A number of other audience members contributed their views.

It is RTÉ's view that the discussion on the Immigration Bill fulfilled all requirements in regard to impartiality. A range of viewpoints were heard, the chairman expressed no views of his own. Not every view can be articulated in a discussion that lasts about 15 minutes, but this doesn't mean that the discussion was not balanced and fair.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The discussion in question was in response to a

question from a member of the audience. The Commission noted that this is the format of Questions & Answers. The question asked was, *'Is it fair to imprison or detain people who are coming to Ireland seeking protection'*. The Chairperson, Mr. Bowman, informed the viewers of the context of the question, *'this is in connection with the Government's proposed new law on Immigration'*. In the subsequent discussion, the Chairperson controlled the contributions in a fair and professional manner. Each panel member was permitted sufficient time to air their views and opinions. The Chairperson also asked questions to elicit information and generate debate. Both sides of the argument received a fair hearing.

On viewing the broadcast, the Commission was of the opinion that the Chairperson dealt with each contributor in an even-handed and fair manner. There was no evidence of unfair treatment as submitted by the complainant. The Chairperson ensured that the discussion dealt with both sides of the argument fairly. The broadcast content was objective and impartial. There was no evidence of editorial bias. The complaint was rejected with regard to Section 24(2)(a)(fairness, objectivity and impartiality in current affairs).

Complaint made by: Mr. William Mongey

Ref No. 46/08

Station:

RTÉ Radio 1

Programme:

News at One

Date:

11 February 2008

Complaint Summary:

Mr. Mongey's complaint, submitted under Section 24(2)(a)(fairness, objectivity and impartiality in current affairs) of the Broadcasting Act 2001, relates to an item broadcast on the News at One. The broadcast in question refers to a report on new investigation techniques in rape cases aimed at making suspects incriminate themselves through phone calls or text messages. Mr. Mongey believes that the report initially appeared informative and balanced, featuring inputs both for and against the proposal. However, as the report progressed, the complainant states that the item seemed to take the guilt of the alleged rapist for granted. There was, for example, no suggestion that pretext phone calls should also be used against the alleged victim to prove the innocence of the accused, despite the fact that we have some recent high-profile cases of false rape accusations.

Mr. Mongey queries the use of the phrase "victims like Annette" in the report, despite the fact that after two court cases, the law had declared that "Annette" was not a victim and that her alleged assailant was in fact innocent. There was no corresponding attempt to refer to any convicted rapist as a victim of a false rape accusation. The complainant states that RTÉ has an obligation to provide an impartial service to its male and female listeners, whatever the personal views of the broadcasters.

Station's Response:

RTÉ in their response states that the report included interviews with a woman "Annette" who alleged rape. The jury could not reach a verdict in the first trial. In the retrial, the accused was found not guilty because the jury felt there was insufficient evidence i.e. the word of the accused versus the word of the accuser. The report went on to interview the following: a retired policy woman in the United States who described how pretext evidence worked, a spokesperson for the Rape Crisis Network who said that the technique was worth looking into and a legal expert who said that the tactic could be seen as an attack on civil liberties and a suspect's right to fairness. The report ended with the reporter returning to "Annette" who was described as a "victim".

Referring to Mr. Mongey's concern about the use of the word "victim" RTÉ make the following points:

1. Irrespective of whether "Annette's" accusation was proved or not she is a "victim" in that she has been through two rape trails and the use of the term "victim" does not necessarily imply that the accused was "guilty".
2. "Annette" is a pseudonym and therefore the listener would not know her identity or that of the alleged rapist. RTÉ state that the complainant believes the report was unfair to the man accused by "Annette" of her rape whom he describes as a "victim of a false rape accusation". The reporter stated that the rape accusation had not been proven therefore the listener must assume the alleged perpetrator of the rape is innocent. However, that is not the same as believing that he is necessarily the victim of a "false accusation".

3. The inclusion of “Annette” in the report was for illustrative purposes only. It was made clear at the end of the report, by the studio presenter, that “Annette” was not the woman’s real name.

It is RTÉ’s view that the report was balanced and fair.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The report concerned new investigative techniques that were in use in certain states in America and also, in Canada. The introduction to the report included, *‘the Rape Crisis Centre and the Gardaí have called on the Minister of Justice to consider the use of new controversial investigative techniques in rape cases. The new tactics would aim to make suspects incriminate themselves through phone calls or text messages. The Department of Justice has said it will consider whether any change is desirable, but legal experts say it could damage civil liberties’*. The programme-makers therefore made it clear to the listener that a new tactic to try and make suspects incriminate themselves was going to be discussed. The programme-maker is entitled to make such editorial decisions. What is important to the Commission is that the broadcaster does so in a fair, impartial and objective manner.

On hearing this broadcast, the Commission was of the view that both sides of the issue were given a fair hearing. The presenter informed the listener from the outset that the new technique was ‘controversial’. In the course of the report, the listener heard from contributors both for and against the technique of pretext phone calls. It was clearly stated that it was believed by some that such techniques could damage civil liberties. One particular contributor, Prof. MacAuley, explained why the technique could be considered to damage civil liberty and in particular, infringe *‘on a suspects right to fairness’*. The contributor referred to as ‘Annette’, spoke from the perspective of someone who believed the new technique could have made a difference in her case. A person is entitled to voice opinion. ‘Annette’s’ contribution was one of many and could not in itself determine the bias, or otherwise, of the programme.

In the opinion of the Commission, the report was objective and reflected the opposing views in a fair manner. It was informative, with both sides being given ample time to clearly indicate their views and opinions. The report, and the presentation, were impartial. There was no evidence of editorial bias in this broadcast. The complaint was rejected with regard to Section (2)(a)(fairness, objectivity and impartiality in current affairs).

Complaint made by: Mr. Declan McManus

Ref. No. 49/08

Station:

Today FM

Programme:

The Ray D'Arcy Show

Date:

8 February 2008

Complaint Summary:

Mr. McManus' complaint, submitted under Section 24(2)(d)(taste & decency: Code of Programme Standards, section 3.3.2 Coarse and offensive language in live broadcasts) relates to the use of the words 'shagged', 'jaysus' and 'bisexual lesbians' when discussing the pros and cons of bedding two women simultaneously on the 8 February.

Mr. McManus considers Ray D'Arcy's behaviour to be utterly reprehensible and he is highly embarrassed at the prospect of visitors to this Country believing that we, as a society, are happy to accept this quality of broadcasting. He states it is not acceptable and he has spoken to a number of friends and acquaintances who all agree that the use of expletives, at this hour of the day on the public airwaves, reflects extremely poor judgement and bad taste.

Station's Response:

Today FM states that all the phrases used above are in general common use among their listeners. While they accept that they may not meet with everyone's approval, they are part of everyday conversation and using them in the show reflects the fact that Ray D'Arcy and his team have real contact with their listeners.

The Ray D'Arcy Show, from time to time, discusses, in an open fashion, matters of a sexual nature. This was clearly the case on February 8th, in relation to the discussion about having more than one partner. While there was some humour in the discussion, it is not Today FM's opinion that the matter was in any way offensive.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that the discussion in question concerned the broadcasting of a programme on polygamy the night before on television. This included references to sex and lesbians relationships. A broadcaster is entitled to address sexual matters during programming. What is important to the Commission is that it does so with due care.

On hearing this broadcast, the Commission noted that there were no explicit sexual references. The issue of polygamy was addressed in the context of a programme the presenter had seen on television. His references were based on the content of the programme. He also read out a number of texts from listeners on the issue. In the course of reading such texts, various colloquial terms were used. The Commission would acknowledge that some listeners may not like the use of such colloquial terms and also, the use of sexual references. However, in this broadcast the language and sexual references were moderate. There were no explicit sexual references and/or language that would be considered highly offensive by regular listeners to the programme.

The Commission would acknowledge that while some listeners would dislike the content of this broadcast programme, it was sufficiently moderate for broadcasting. The complaint was rejected with reference to Section 24(2)(d)(taste & decency: Code of Programme Standards, section 3.3.2 Coarse and offensive language in live broadcasts).

Complaint made by: Mr. Donal Doyle

Ref. No. 56/08 & 57/08

Station:

RTÉ One

Programme:

Six One News

Date:

4 February 2008

Complaint Summary:

Mr. Doyle's complaint, submitted under Sections 24(2)(d)(taste & decency: Code of Programme Standards, section 3.5.2 undue distress) and (c)(unreasonably encroach on the privacy of an individual) of the Broadcasting Act 2001, relates to an item broadcast on the Six One News in respect of the death of Mr. Doyle's son. Mr. Doyle states at approximately 11 a.m. (Spanish time), his son was murdered in Spain. Neither he nor his family were informed by any of the relevant authorities. When viewing the Six One News, the reporter, Paul Reynolds, named his son, showing photos of him and described crimes he was suspected of committing. Mr. Doyle states his family were not approached during the day and the item caused both himself and his family extreme distress. He feels that by not being contacted by RTÉ, his basic right to privacy has been infringed.

Station's Response:

RTÉ in its response states that the news item did not broadcast Patrick Doyle's name. In the report by RTÉ's Crime Correspondent, Paul Reynolds, Mr. Doyle was not named. Neither was his photograph shown. He was described as a prominent Irish drugs trafficker, aged 25-30, originally from Dublin's north inner city. This information may have led the Doyle family to identify their son. But he was not named. RTÉ understands that other broadcasters did name Patrick Doyle during the course of the afternoon, but they are adamant that they did not name him until the main evening news at 9 p.m..

Mr. Reynolds, in preparing his report for the Nine O'Clock News, reported from outside the Doyle family home in a recorded piece-to-camera at approximately 8.15 p.m.. There was a Garda presence outside the Doyle house and RTÉ is confident that the Doyle family must have known, formally, about the death of their son, by that time.

RTÉ reported a matter of public interest in an objective, calm and timely manner. The images in the report from Spain were of bullet holes in a car's body and windscreen, police and emergency services activities. There were no images that could possibly be regarded as breaches of taste and decency.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint concerns the reporting of the murder of an Irish man in Spain. The Commission noted that during the report the name of the victim was not mentioned. There were also no photographs of the victim shown. The newsreader reported that *'a prominent Irish drugs trafficker is believed to have been shot dead in Spain. The man who is in twenties was originally from Dublin's North Inner City. It is believed he was shot near Esteponia on the Costa del Sol this afternoon. A second Irish criminal is reported to have been injured in the attack'*. A report from Paul Reynolds was then shown. In this report he gave details of the shooting and informed the viewer of the backgrounds of the Irish men shot, the details of which he received from Garda sources. Mr.

Reynolds never mentioned the victim's name, nor did he show a photograph of him.

The Commission would acknowledge the highly sensitive nature of the subject matter for the complainant and the Commission can understand his reaction to the report. However, at no stage during the Six One News was the victim's name mentioned, or his picture shown. The report explained that the victim was well known to Gardaí, that he was a suspected drugs trafficker. He had been killed in a gangland type shooting, when he and two other Irish men were shot at in a four-wheel drive by a number of gunmen from another car. Such criminal activities are widely reported in the news and are of public interest.

There were no references to the family in the broadcast. All the detail related specifically to the victim of the shooting, who was not identified by name. On this basis, the issue of the unreasonable encroachment on the privacy of the family is not valid as submitted by the complainant.

The Commission was of the view that the content was editorially justified and that the report was presented in a responsible and moderate manner. The complaint was rejected with regard to Sections 24(2)(d)(taste & decency: Code of Programme Standards, section 3.5.2 undue distress) and (c)(unreasonably encroach on the privacy of an individual).

Complaint made by: Mr. Rory Comber

Ref. No. 58/08

Station:

RTÉ One

Programme:

RTÉ News: Nine O'Clock

Date:

23 February 2008

Complaint Summary:

Mr. Comber's complaint, submitted under Section 24(2)(d)(taste & decency: Code of Programme Standards, sections 2.2. due care, 2.3 protection of children and 3.5 factual programming) relates to a report on how an English soccer player's leg had been broken in a tackle from an opposition player during a premiership game that day. The complainant submits that the report first showed the tackle in real-time from an angle whereby one could make out it was a bad tackle and the clip showed some distressed reaction from the other players at the resultant injury. The segment then went on to interview the relevant team managers. He further submits that it was obvious from the interviews that the tackle had been a bad one as it was discussed as being career-threatening for a man in his early twenties.

The report then went on to show, in slow motion and clear-view, the point of contact of the tackle and the breaking of the man's leg. The complainant asserts that this was patently not necessary to the reporting of the incident, and went beyond the limits of common decency. It was editorially unjustified, in that it added nothing to the reporting of the incident.

Station's Response:

RTÉ states that included in the sports news were details of English soccer matches played that day. In one of the games an Arsenal player suffered a broken leg as a result of a tackle by a Birmingham player. This tackle was shown in wide shot during the report on the game. At the end of the report on the game, the Arsenal manager was interviewed about the tackle. As a lead into the manager's comments the tackle was shown again. This time the shot was closer than before and in slow motion, though the whole shot of the tackle only lasted in total 4 seconds and was still a wide shot. There were no close ups of the injured player's leg or any of his suffering.

In RTÉ's view it was perfectly acceptable to include in the report the second showing of the tackle as it gave context to the angry response from the Arsenal manager. It was not gratuitous and did not go, as the complainant claims, 'beyond limits of common decency'. The Arsenal manager called for the Birmingham player to be banned for life from playing football. To understand this extreme demand it was deemed necessary to view the tackle for a second time.

Any child watching the News would only have seen a dangerous tackle taking place. That child would not have seen any close up of the broken leg. What was shown in the News took account of the time of broadcast and was appropriate and not in any sense excessive.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The broadcast item was during the round up of the English Premiership soccer games that day. During Arsenal versus Birmingham, an Arsenal player's leg was broken. The report showed a few clips from the game, including the tackle in which the leg was broken. At the end of the

report, the tackle was shown again with the voice-over; *'Arsene Wenger was not in a good mood after the game. His anger at the injury to Eduardo was still obvious'*. An interview with the Arsenal Manager was then shown in which he stated; *'The tackle was horrendous and this guy should never play football again. It's just not acceptable. If that is football, we are better to stop it'*.

On viewing the short clip, the Commission noted a viewer would have seen that the player's leg was broken. However, the clip must be taken in context. It was shown during the Nine O'Clock news, which is a programme watched mainly by adults. Also, during the news a viewer can expect to see reports on violence, accidents and such like. What is important to the Commission is how the report is presented. On this occasion, there were no close up shots of the player's leg. The clip was extremely short; the tackle was shown and then the report immediately switched to the interview with the Arsenal Manager. Therefore, the viewer never saw the player suffering or any of the players around him in distress. The voice-over of the clip also informed the viewer that the Arsenal Manager was still angry over the tackle. This was a lead into the interview with the Manager, which followed.

On viewing the item, the Commission was of the opinion that the report was presented in a responsible manner. It was broadcast during a news programme, after 9 p.m. and included only a very short clip, in long-shot, of the tackle. Given the voice-over and the proceeding interview with Arsene Wenger, the clip appeared to be shown in the context of Mr. Wenger's reaction to the tackle. The clip was non-gratuitous and non-explicit. Taking in context, the clip was editorially justified. The complaint was rejected with regard to Section 24(2)(d)(taste & decency: Code of Programme Standards, sections 2.2. due care, 2.3 protection of children and 3.5 factual programming).

Complaint made by: Mr. Colm de Barra

Ref. No. 64/08

Station:

RTÉ One

Programme:

Nine O'Clock News

Date:

26 February 2008

Complaint Summary:

Mr. de Barra's complaint, submitted under Section 24(2)(d)(taste & decency: Code of Programme Standards – sections 3.4.5 - undue offence in treatment of religious views),

relates to an item about the Father Ted festival. The complainant states the item shown was part of the festival held in Kilfenora. A float showing two people dressed in clerical garb were making a mocking charade of the act of consecration of the Catholic Mass. The complainant believes that the visual editing of this item indicated approval of the action as a valid public display. Such a display being given prominence in the news is deeply offensive to the community of Catholic believers and to all those who respect religious beliefs.

Station's Response:

RTÉ states that the report opened with a parade through Kilfenora by people dressed as Father Ted characters. RTÉ does not accept that the image was offensive. The report was of a light-hearted comedy festival commemorating a television series which mocks, in the most gentle of way, three very eccentric priests in a make belief island off the west coast of Ireland. The inclusion in the report of the images of the parade of characters from the series, through Kilfenora, would have been recognised by the overwhelming majority of viewers as simply an inoffensive record of what had happened in the village earlier that day. The interviews and images were gentle recollections of the series and reflected the enjoyment the series had brought to many people. RTÉ claims this was a harmless report and Mr. de Barra's reaction is an entirely isolated reaction.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint concerns a report on the Nine O'Clock News about a festival held in Kilfenora to celebrate the series Father Ted. The report was approximately two minutes in length and contained clips of fans participating in the festival in Kilfenora, short interviews with fans and the writers of the show. The newsreader's introduction to the report included; *'his Father Ted character continues to enjoy a cult following at Ted Fests around the country. Today the writers of the tv series joined fans in Kilfenora, in Co. Clare, the home of Craggy Ireland'*.

In the opening of the report, clips of the parade through Kilfenora that day were shown. It was evident that all the participants were dressed up as Father Ted characters. Many of the participants were also heard reciting well-known sayings from the series. The voice over stated: *'Clerics, tea ladies and lovely girls piled into Kilfenora for the milk-float and banger parade. They follow the Ted trail religiously keeping the legacy of Dermot Morgan alive'*.

It was evident that the report was about a festival that celebrates the series Father Ted. The participants were all in character. Viewers would have been aware that they were behaving in the manner of the Father Ted characters. The tone was light-

hearted and festive. Given the context, the Commission was of the view that there was no content that could be considered to cause undue offence on the grounds of religious views or beliefs. The complaint was rejected under Section 24(2)(d)(taste & decency: Code of Programme Standards – sections 3.4.5 - undue offence in treatment of religious views).

Complaint made by: Ms. Máiri Henderson

Ref. No. 67/08

Station:

TV3

Programme:

TV3 Promo: Film trailer, 'The Saint'

Date:

23 February 2008

Complaint Summary:

Ms. Henderson's complaint, submitted under Section 24(2)(d)(taste & decency: Code of Programme Standards, sections 2.2. due care, 2.3 protection of children and 3.1 violent programme material) relates to a trailer for a film on TV3 during the programme Ant & Dec's Saturday Night Takeaway. The complainant submits that she was watching Ant & Dec with her children, a television show that she believes is suitable for all the family. However, during one of the advertisement breaks there was a trailer for the film 'The Saint', due to be shown later on TV3. She found the trailer to be menacing; it included footage of a woman being attacked with a knife. She further submits that both her children were upset by this footage and she feels it was inappropriate to show the trailer during a family show.

Station's Response:

TV3 states that the trailer for the film 'The Saint' went out at approximately 7.50 p.m. on Saturday 23rd February last during the Ant & Dec's Saturday Night Takeaway show. Over three-quarters of the audience for this programme are over the age of eighteen. The film 'The Saint' is rated twelve's in the Irish and UK markets. The film was therefore not classified as being adult in nature and would not have graphic content. It also followed a programme that does not have a high percentage of child viewers. Both programmes would fall within the light entertainment genre.

The trailer contained one scene where a male with a black glove puts his hands around a female's neck. There is no knife used at any stage. There is no violence as such and the image is fleeting, as the 'hero' of the movie arrives on the scene. The entire shot is very much non-graphic and almost cartoon like. TV3 further submits that it is not the station's intention to offend its viewers or any part of its audience. TV3 regrets that this has occurred.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The promo for the film 'The Saint' was approximately 28 seconds in length and opened with a woman running through a crowd in what looked like an underground train station. As she runs around a corner she is grabbed by a man. 'The Saint' then enters the scene and 'rescues' her.

The Commission would acknowledge the concerns of the complainant about violence being shown on TV while children might be in the audience. The Commission would also acknowledge that the programme Ant & Dec's Saturday Night Takeaway would attract 'family' viewing. In assessing the complaint, the Commission must also consider whether the violence was editorially justified and whether the broadcaster had exercised due care in scheduling.

The Commission was of the opinion that the content of the trailer was not menacing or threatening. The woman was grabbed by a man, but was almost immediately

rescued by 'The Saint'. The Commission noted that the scene appeared real and was not cartoon like in nature as submitted by the broadcaster. However, the scene was fleeting and the woman was not shown to be in distress. There was also no knife used in the course of the promo. While the Commission would acknowledge that some children may have disliked the promo, there was no content which the Commission considered harmful to children. There was also no explicit violence or distressful content. 'The Saint' is also a well-known detective character and many viewers would have been familiar with the style and content of the promo. Given the time of broadcast and the programme being promoted, the fleeting images used and the non-explicit content, the Commission was of the opinion that the trailer was suitable for broadcast in the late evening schedule. The complaint was rejected with regard to Section 24(2)(d)(taste & decency: Code of Programme Standards, sections 2.2. due care, 2.3 protection of children and 3.1 violent programme material).

Complaint made by: Mr. Donal Doyle

Ref. No. 75/08

Station:

RTÉ One

Programme:

Nine O' Clock News

Date:

4 February 2008

Complaint Summary:

Mr. Doyle's complaint, submitted under Sections 24(2)(d)(taste & decency: Code of Programme Standards, section 3.5.2 undue distress) and 24(2)(c)(unreasonable encroachment of privacy of an individual) of the Broadcasting Act 2001, relates to an item broadcast on the Nine O' Clock News. Mr. Doyle states that on 4 February his son was murdered in Spain. RTÉ correspondent, Paul Reynolds named his son on the Nine O' Clock News that night. He believes this was done on the assumption that the Doyle family had been officially notified. However, they were not notified until 4pm on 5 February, 27 hours after the death of his son. The complainant states that RTÉ should have carried out more research before broadcasting this item. Various opinions were broadcast about Mr. Doyle's son and he believes the family's privacy was invaded.

Station's Response:

RTÉ states that Mr. Doyle's son Patrick was identified on the Nine O' Clock News as having been the victim of a shooting earlier that day in Spain. Patrick Doyle's identity had been broadcast on several other broadcast media operations by 6 p.m.. Therefore it was widely known in the area where Mr. Donal Doyle lives that Patrick has been shot dead. There had been a steady stream of callers to the Doyle house during the afternoon and visitors leaving were seen to be distraught. There was also considerable Garda activity around the house. Many members of the media were present at 8.15 p.m. when RTÉ's crime correspondent, Paul Reynolds, recorded a piece to camera in which Patrick Doyle's identity was given. This was broadcast on the Nine O' Clock News. Out of respect for their suffering, the RTÉ crime correspondent did not call to the Doyle household to seek confirmation that the Doyle family had been officially informed of their son's death. He did call to the Doyle household the following day, but the door was closed as soon as the occupant recognised Mr. Reynolds. In general, it is RTÉ's policy not to identify victims of murder or indeed any fatal accident until the victim's family has been informed. In this instance, given that the victim's name had been broadcast earlier in the day, the fact that Gardaí were present outside the Doyle household and that all journalists were fully aware at that time that Patrick Doyle had been murdered, this was regarded as sufficient justification to identify him in the Nine O' Clock News report.

Mr. Donal Doyle claims that the family were not officially informed by the Garda authorities until 4 p.m. on 5 February. However, it is RTÉ's view that the family would have been aware of their son's death long before they were officially informed. Patrick Doyle's death took place outside the jurisdiction and it is perfectly possible that the Gardaí were only informed by their Spanish counterparts a day later. However, by this time the Spanish media had been broadcasting for 24 hours news of the murder and had provided sufficient information about the victim to enable him to be identified. RTÉ is not obliged to wait to identify a victim until "official" notification has taken place. If Mr. Doyle's claim is accurate, the family were not "officially" informed until long after every newspaper and every radio and television news had identified Patrick Doyle as the person shot dead in Spain, it is

highly likely that the report on the Nine O' Clock news would not have added to the stress of the Doyle family as by that time they must have been aware of the tragic death of their son.

RTÉ repeat its condolences to the Doyle family on the death of their son but believe the reporting of his murder was legitimate and not in breach of any statutory obligation in regard to privacy.

Decision of Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint concerns the reporting of the murder of an Irish man in Spain. The Commission noted that during the report the name of the victim was given and a picture of him shown. The newsreader reported that *'a convicted Dublin gangland leader has been shot dead in a gangland style killing in Spain. The 27 year old Patrick Doyle, from Portland Row in Dublin's North Inner City, was shot....'* A report from Paul Reynolds was then shown. In this report he gave details of the shooting and the names of the three Irish men in the car. This included the name of the complainant's son. The report showed a picture of each of the three men in question. Mr. Reynolds also reported on the fact that the victim, Patrick Doyle, was a suspected international drugs trafficker and a target of the Garda National Drugs Unit. He gave other background information and then informed the viewer that the police were not sure of the context of the murders. They could have been due to a feud between two gangs or the result of an internal feud within a criminal gang.

The Commission would acknowledge the highly sensitive nature of the subject matter for the complainant and the Commission can understand his reaction to the report. His son was mentioned by name and his picture shown. The Commission noted that the report was during the Nine O'Clock News. The victim was murdered in the late morning, around 11 a.m. Irish time. In assessing this complaint, the Commission had to have regard to the editorial justification for reporting on the shooting and also, public interest.

The report explained that the victim was well known to Gardaí, that he was a suspected drugs trafficker. He had been killed in a gangland type shooting, when he and two other Irish men were shot at in a four-wheel drive by a number of gunmen from another car. Such criminal activities are widely reported in the news and are of public interest. In relation to mentioning the victim and showing a photograph of him, the Commission had regard to the time of broadcast. The Commission also noted in the submission from the broadcaster that when the report for the evening news was being recorded by RTÉ at approximately 8.15 p.m., there was a lot of media activity and Garda activity around the Doyle household. The Commission would accept that it was reasonable for the broadcaster to believe that the family knew of the shooting. The submission of the Broadcaster that the victim had also been identified on other stations and through other media and therefore, was in the public domain before the RTÉ Nine O'Clock News was broadcast, is also noted. While the family may not have been officially notified, the Commission accepts that it was reasonable for RTÉ to believe the family knew pending the official notification. Further, the identity of the victim was already in the public domain.

The report was factual in nature and dealt with the shooting in a matter-of-fact and professional manner. There was no content that the Commission would consider gratuitous or explicit. The report dealt with a gangland type shooting and gave background information on the three Irish men involved. It also included detailed background information on the Irish man killed. The Commission would acknowledge that such detail could upset and be distressful for the complainant, given that the victim was his son. However, it is highly likely that he was aware that the shooting had taken place by the time the report aired on the Nine O'Clock News. The shooting was allegedly related to Irish gangland crime. The shooting was of public interest and given the nature of the report, the inclusion of the name of the victim and a picture of him was editorially justified.

There were no references to the family in the broadcast. All the detail related specifically to Patrick Doyle, the victim. On this basis, the issue of the unreasonable encroachment on the privacy of the family is not valid as submitted by the complainant.

The Commission was of the view that the content was editorially justified, in the public interest and that the report was presented in a responsible and moderate manner. The complaint was rejected with regard to Sections 24(2)(d)(taste & decency: Code of Programme Standards, section 3.5.2 undue distress) and (c)(unreasonable encroachment of privacy of an individual).