

Annual Report 31 December 2006 Tuarascáil Bhliantúil

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Broadcasting Complaints Commission  
Coimisiún um Gearáin Chraolacháin



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## Upheld Complaints/Gearáin ar Seasadh Leo

### IMPARTIALITY/CLAONTAUGHT

	Station Stáisiún	Broadcast Clár	Complainant Gearánaí	Ref No. Uimh Tag
5.1	RTÉ Radio 1	Today with Pat Kenny	Mr. T. Higgins	234/05
5.2	RTÉ Radio 1	Today with Pat Kenny	Ms. S. Pemberton	269/05
5.3	Newstalk	Breakfast Show with Eamon Dunphy	Mr. M. Walsh	18/06
5.4	Shannonside	Séamus Duke Show	Ms. C. Clancy	21/06

### TASTE & DECENCY/OIRIÚNACHT & CUIBHEAS

	Station Stáisiún	Broadcast Clár	Complainant Gearánaí	Ref No. Uimh Tag
5.5	RTÉ2	The Unbelievable Truth	Rev. B. Desmond	81/06
5.6	TV3	Ireland AM	Ms. M. Corcoran Kennedy	152/06
5.7	TG4	Comórtas Scannáin TG4 2006	Mr. K. Ryan	192/06
5.8	TV3	Chicago Hope	Mr. P. Bennett	233/06

### PRIVACY/PRÍOBHAIDEACHAS

	Station Stáisiún	Programme Clár	Complainant Gearánaí	Ref No. Uimh Tag
5.9	Dublin City Anna Livia FM	Backbeat	Mrs. D. Reid	137/05
5.10	Tipp Mid West	Breakfast show with Breda Ryan	Ms. S. Toomey	172/05

### ADVERTISING/SPONSORSHIP/PROMOTION/FÓGRAÍOCHT/URRAÍOCHT/CUR CHUN CINN

	Station Stáisiún	Broadcast Clár	Complainant Gearánaí	Ref No. Uimh Tag
5.11	RTÉ Radio 1	Advert - Interim National Consumer Agency	Ms. T. Buckley	134/05
5.12	Today FM	Advert - Interim National Consumer Agency	Ms. T. Buckley	144/05
5.13	RTÉ TV1	Sponsorship – Weather reports	Mr. P. Weigl	192/05
5.14	TV3	Advert - Irish Psychics Live	Mr. R. Di Mascio	70/06
5.15	TV3	Advert - 7th Sense Psychic Line	Mr. R. Di Mascio	71/06
5.16	Newstalk	Advert - Senator Windows	Mr. P. McDonagh	127/06

## Rejected Complaints/Gearáin ar Diúltaíodh

### IMPARTIALITY/CLAONTAUGHT

	Station Stáisiún	Broadcast Clár	Complainant Gearánaí	Ref No. Uimh Tag
5.17	RTÉ TV1	A Family Fortune - de Valera's Irish Press	Dr. E. de Valera	149/05
5.18	RTÉ Radio 1	1 o'clock news	Mr. C.G. Flynn	217/05
5.19	RTÉ TV1	The Late Late Show	Mr. S. O'Carroll	222/05
5.20	RTÉ TV1	The Late Late Show	Mr. M. F. Crowe	231/05
5.21	RTÉ Radio 1	1 o'clock news	Mr. D. Rice	237/05
5.22	Newstalk	The Wide Angle	Mr. C. Mac Samhrain	17/06
5.23	Radio Kerry	Radio Kerry News	Mr. J. O'Quigley	23/06
5.24	Newstalk	The Right Hook	Mr. A. O'Brien	31/06
5.25	Clare FM	Morning Focus	Mr. N. Brennan	33/06
5.26	RTÉ Radio 1	Liveline	Ms. A. Callaghan	42/06
5.27	TG4	Éalú	Col. J. Mortell	52/06
5.28	RTÉ Radio 1	Today with Pat Kenny	Mr. J. Mulligan	53/06
5.29	RTÉ TV1	Prime Time	Mr. F. Connolly	60/06
5.30	RTÉ Radio 1	Five Seven Live	Mr. P. Swords	65/06
5.31	RTÉ Radio 1	This Week	Mr. M. Lennon	89/06

5.32	LM FM	Loose Talk	Ms. R. Harlin	99/06
5.33	RTÉ TV1	Prime Time	Mr. M. Long	104/06
5.34	RTÉ Radio 1	Morning Ireland	An Doctúr. D. A. O Ceallaigh	110/06
5.35	RTÉ TV1	RTÉ TV News: One O'Clock	An Doctúr. D. A O Ceallaigh	111/06
5.36	RTÉ Radio 1	Today with Pat Kenny	Mr. A. McGrath	118/06
5.37	RTÉ TV1	Chain Reactions	Mr. B. Rothery	122/06
5.38	RTÉ Radio 1	Tonight with Vincent Browne	Mr. J.P. O'Brien	126/06
5.39	RTÉ TV1	Chain Reactions	Mr. D. Stanley	128/06
5.40	RTÉ TV1	Black Sheep	Mr. G. Rice	131/06
5.41	RTÉ Radio 1	Tonight with Vincent Browne	Ms. B. O'Keefe	155/06
5.42	RTÉ Radio 1	Today with Tom McGurk	Mr. F. Ryan	156/06
5.43	RTÉ Radio 1	Mooney Goes Wild	Mr. B. Price	172/06
5.44	RTÉ Radio 1	Mooney Goes Wild	Mr. B. Price	173/06
5.45	Newstalk	City Edition	Mr. P. Dunne	183/06
5.46	Newstalk	Life with Orla Barry	Mr. D. O'Sullivan	185/06
5.47	RTÉ2	RTÉ2 News on Two	Mr. X	186/06
5.48	RTÉ TV1	Aertel – Sports	Mr. R. O Fuaráin	196/06
5.49	RTÉ TV1	The Late Late Show	Mr. P. Kavanagh	210/06
5.50	RTÉ TV1	RTÉ TV News: Six One	Mr. & Mrs. C. & E. X	211/06
5.51	RTÉ TV1	The Late Late Show	Mr. N. Healy	221/06
5.52	RTÉ Radio 1	Liveline	Mr. E. Quinn, Unmarried and Separated Father's of Ireland	237/06
5.53	RTÉ Radio 1	Tonight with Vincent Browne	Mr. M. Crotty	240/06
5.54	RTÉ TV1	RTÉ TV News: Nine O'Clock	Mr. P. Feddis	249/06
5.55	RTÉ TV1	Seoige and O'Shea	Mr. U. Ó Broin	259/06

#### **TASTE & DECENCY/OIRIÚNACHT & CUIBHEAS**

	<b>Station</b> <b>Stáisiún</b>	<b>Broadcast</b> <b>Clár</b>	<b>Complainant</b> <b>Gearánaí</b>	<b>Ref No.</b> <b>Uimh Tag</b>
5.56	Cork 96FM	The Morning Show	Mrs. U. O'Sullivan	182/05
5.57	RTÉ TV1	The Late Late Show	Mr. N. Healy	204/05
5.58	RTÉ TV1	The Late Late Show	Mr. K. Mullen	209/05
5.59	RTÉ TV1	The Late Late Show	Mr. B. Anderson	214/05
5.60	RTÉ TV1	The Late Late Show	Mrs. & Mr. A. & K. McDonald	216/05
5.61	RTÉ TV1	The Late Late Show	Mrs. M. Stewart	220/05
5.62	RTÉ Radio 1	The Late Late Show	Mr. O. Mulholland	227/05
5.63	RTÉ2	Podge and Rodge	Ms. C. Forrester	241/05
5.64	RTÉ TV1	The Late Late Show	Mr. R. Deane	250/05
5.65	RTÉ TV1	You're A Star	Mrs. M. O'Regan	253/05
5.66	RTÉ TV1	Fair City	Ms. A. Feeney	6/06
5.67	RTÉ Radio 1	Tonight with Vincent Browne	Mr. P. Walsh	7/06
5.68	RTÉ TV1	RTÉ TV News: Six One	Ms. P. Ward	11/06
5.69	RTÉ2	Joy in the Hood	Mr. M. Fitzgerald	13/06
5.70	RTÉ TV1	The Dubs - The Story of a Season	Mr. K. G .A. Smith	14/06
5.71	RTÉ2	Joy in the Hood	Mr. K. G .A. Smith	15/06
5.72	RTÉ Radio 1	Rattlebag	Mr. D. Marlborough	16/06
5.73	TV3	TV3 News	Mr. J. Whelan	20/06
5.74	RTÉ TV1	You're A Star	Mr. D. McKenna	24/06
5.75	RTÉ2	Sattitude	Mr. P. Robinson	30/06
5.76	RTÉ Radio 1	The Ryan Tubridy Show	Mr. U. Ó Broin	40/06
5.77	RTÉ TV1	You're A Star	Mr. N. Healy	49/06
5.78	RTÉ2	Podge and Rodge	Ms. L. Dockery	66/06
5.79	FM104	The Strawberry Alarm Clock	Mr. T. Byrne	78/06
5.80	RTÉ Radio 1	Morning Ireland	Mr. G. Shipley	87/06

5.81	RTÉ Radio 1	Today with Pat Kenny	Mr. G. Shipley	88/06
5.82	Today FM	Sunday Supplement	Mr. L. Matthews	97/06
5.83	RTÉ Radio 1	Round Midnight	Mr. P. McEvoy	108/06
5.84	RTÉ TV1	Tubridy Tonight	Mr. A. Fullam	109/06
5.85	2FM	Gerry Ryan Show	Mr. K. Conry	117/06
5.86	City Channel	On the Box	Ms. Y. Barry	133/06
5.87	Cork's 96FM & 103FM	The Opinion Line	Ms. A. Ryan	150/06
5.88	98 FM	Late Night Talk with Tom Brannigan	Ms. S. Harris	201/06
5.89	Cork's 96FM & 103FM	Nick Richards Show	Mrs. U. Corcoran	223/06
5.90	TG4	Hector san Oz Down under	Mr. P. Norden	235/06

#### LAW & ORDER/ORD AGUS DLÍ

	<b>Station Stáisiún</b>	<b>Broadcast Clár</b>	<b>Complainant Gearánaí</b>	<b>Ref No. Uimh Tag</b>
5.91	RTÉ TV1	The Late Late Show	Ms. M. Escribano	249/05
5.92	RTÉ TV1	The Late Late Show	Mr. H. Harkin	265/05
5.93	RTÉ Radio 1	Tonight with Vincent Browne	Mr. R. Connor	123/06

#### PRIVACY/PRÍOBHAIDEACHAS

	<b>Station Stáisiún</b>	<b>Broadcast Clár</b>	<b>Complainant Gearánaí</b>	<b>Ref No. Uimh Tag</b>
5.94	FM104	FM104 Mobile Money Game	Mr. P. Bane	86/06
5.95	TippFM	Tipp Today	Mr. G. Mordaunt	101/06

#### SLANDER/CLÚMHILLEADH

	<b>Station Stáisiún</b>	<b>Broadcast Clár</b>	<b>Complainant Gearánaí</b>	<b>Ref No. Uimh Tag</b>
5.96	RTÉ Radio 1	Marian Finucane Show	Mr. J. A. Waters	206/05

#### ADVERTISING/SPONSORSHIP/PROMOTION/FÓGRAÍOCHT/URRAÍOCHT/CUR CHUN CINN

	<b>Station Stáisiún</b>	<b>Broadcast Clár</b>	<b>Complainant Gearánaí</b>	<b>Ref No. Uimh Tag</b>
5.97	RTÉ TV1	The Late Late Show	Mr. P. McNamara	162/05
5.98	TV3	Advert - Lacoste	Mr. D. McElligott	218/05
5.99	RTÉ Radio 1	Advert – Dettol	Mr. D. Shields	246/05
5.100	RTÉ2	Advert – Amstel Beer	Mr. M. McLoughlin	3/06
5.101	RTÉ2	Advert – Heineken	Mr. M. McLoughlin	4/06
5.102	RTÉ TV1	Advert - Murphys Stout	Mr. A. Poole	55/06
5.103	RTÉ TV1	Advert - Bank of Ireland	Mr. R. Di Mascio	59/06
5.104	RTÉ TV1	Advert – Lucozade	Ms. E. Birdthistle	72/06
5.105	RTÉ TV1	Sponsorship – Weather reports	Mr. B. McSweeney	82/06
5.106	RTÉ TV1	Advert – Moro	Mr. T. Owens	114/06
5.107	RTÉ Radio 1	Today with Pat Kenny	Mr. A. McGrath	119/06
5.108	2FM	Advert - Play Station	Mrs. V. Corbett	143/06
5.109	RTÉ Radio 1	Advert – Treoir	Ms. P. Gardiner	144/06
5.110	RTÉ2	Advert - Malteesers	Mr. B. Griffin	198/06
5.111	Mid West Radio	Advert - Environmental Protection Agency	Mr. T. F. Bourke	224/06
5.112	RTÉ Radio 1	Advert - Environmental Protection Agency	Mr. T. F. Bourke	225/06
5.113	Cork's 96FM & 103FM	Advert - Senokot Tablets	Mrs. U. Corcoran	226/06
5.114	Newstalk	Advert - Top Security	Mr. A. Ó'Riordáin	232/06
5.115	Cork's 96FM & 103FM	Cork's 96FM - fugitive competition	Mr. A. Hayes	248/06
5.116	RTÉ2	Advert - Birds Eye Frozen Salmon	Mr. D. Maguire	252/06

#### Resolved Complaints/Gearáin Réitithe

## 1. TWENTY EIGHT ANNUAL REPORT

- 1.1 This is the twenty eight annual report of the Broadcasting Complaints Commission to the Minister for Communications, Marine and Natural Resources for the year ended 31 December 2006, in accordance with Section 25 of the Broadcasting Act 2001.

## 2. MEMBERS OF THE COMMISSION

- 2.1 The members of the Commission on the 31 December were:

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

- 2.2 The Commission's term of appointment is until October 2010 or until such time as a new body is established under the Broadcasting Bill, which ever is the lesser.

- 2.3 The Commission met ten times in the period under review, during which time 124 complaints were fully processed and the decisions forwarded to the complainants and the relevant broadcasters and/or advertisers. The Commission had to close two complaints due to the lack of availability of the relevant audio material.

- 2.4 The Commission's decisions are made publicly available through circulation to the national press and by posting them to the Commission's website.

The Commission makes information available on its website, [www.bcc.ie](http://www.bcc.ie). All complaints and publications are posted to this site. The address and telephone number of the Commission are also available in the telephone directories.

In line with the Commission's aim to provide an efficient and transparent service, the Commission committed to a target timeframe for the processing of complaints. It also committed to making such details publicly available through publication in the Commission's Annual Report.

The complaint process has a basic timescale that is established by broadcasting legislation: -

### Complaint Process; time related issues:

- Must be made within 30 days of the broadcast.
- Once a complaint is considered to be valid, it is forwarded to the broadcaster and/or advertiser and/or independent producer who has 21 days to respond to the complaint if it so wishes.
- The broadcaster's and or/advertiser's and/ or independent producer's response is then forwarded to the complainant. The complainant then has 14 days to inform the BCC whether he/she is not content with the response and they wish that the complaint be presented to the Board of the Commission for consideration and adjudication.
- The Board meet on average 10 times a year. After each meeting, the Commission endeavours to circulate, within one week, all decisions to the relevant parties.
- The material (i.e. all complaint summaries ) is made publicly available not less than three days after the decisions are circulated to the relevant parties.

1. **Resolved complaints** (i.e. the complainant accepts the broadcaster's explanation) the average time-scale for processing such complaints is 29 days.

2. **Complaints requiring Board consideration:** given the timescales detailed above this process is completed in 90 days or less. The timescale is determined by the date of receipt of the complaint in relation to the date of the next meeting of the Board. For example in 2004 a number of complaints in this category were processed within 40 days. However, given the timescales built into the process, the average for this category is 80 days.

The Commission will closely monitor the time-scale for the complaint process.

- 2.5 The Commission continued to raise awareness of its services throughout 2006. A leaflet and poster campaign was undertaken at the start of the year. Information was circulated to local and regional

libraries, schools and post offices throughout the country. The Commission also placed banner advertisements in the National Press on the TV listing pages. It had been envisaged that the Commission would make available an on-line complaint form in 2006. However, due to the pending implementation of a Code of Programme Standards and a new General Advertising Code in 2007, this project was deferred to 2007. In the meantime, members of the public may continue to lodge a complaint via a complaint form on the Commission's website, [www.bcc.ie](http://www.bcc.ie).

### 3. FUNCTIONS OF THE COMMISSION

- 3.1 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; general advertising codes; children's advertising codes; slander; published matter in relation to RTÉ; and Ministerial prohibitions.
- 3.2 Any viewer or listener may refer a complaint to the Commission if they are not satisfied about broadcasting content on an Irish licensed broadcasting service under any of the above listed categories.
- 3.3 The Commission's remit is derived from various legislative acts, the most recent of which is the Broadcasting Act, 2001.

### 4. COMPLAINTS

- 4.1 All complaints must be submitted in writing and detail the complainant's name and address, the date and time of the broadcast, the name of the station, the category under which the complaint is submitted and a short description of the relevant programme or advertisement.
- 4.2 The complainant's letter is then forwarded to the relevant broadcaster who is permitted twenty-one days to respond to the letter of complaint, if it so wishes. If the complaint is about a programme that was produced by an independent company, the relevant production company is also permitted to respond. Likewise, if the complaint is about an advertisement, the relevant advertising agency is also permitted to respond to the complaint.

- 4.3 If the complainant is satisfied with the response/s, the complaint is considered resolved and therefore, closed.
- 4.4 If the complainant is not satisfied with the response/s, all the relevant complaint correspondence together with a recording of the relevant broadcast are circulated to the Board Members for consideration and decision.
- 4.5 By the 31 December, 2006, the BCC received 294 eligible complaints. There were also 66 cases brought forward from 2005. Of these, 32 required consideration and adjudication by the Board.
- 4.6 Of the complaints received in 2006:
  - 145 were resolved at correspondence stage. The complainants accepted the views of the broadcasters and/or the advertisers and/or the independent producers and thus did not require further investigation by the Broadcasting Complaints Commission;
  - 92 complaints required further investigation and therefore, were given consideration by the Board of the Commission.
  - 12 complaints were withdrawn by the complainants, principally due to anonymity issues.
  - at the 31 December, 2006, 45 cases were being processed.
- 4.7 158 complaints were found to be invalid due to time issues, incomplete information or were not within the scope of the BCC's remit and/or the relevant complaint categories.
- 4.8 A decision of the Commission to uphold a complaint at its last meeting of 2005 against a broadcast item on RTÉ was not accepted by the broadcaster. In February 2006, the station sought a judicial review of the decision of the Commission. The complaint related to the use of religious imagery during a news report on the Fern's Inquiry. As of 31 December 2006, the hearing was still pending.

Due to an anomaly in the Broadcasting Act 2001, the statutory powers of the BCC do not extend to taste and decency complaints against RTÉ. This will remain so until such a time as the Broadcasting Commission of Ireland introduces a Code of Programme Standards. Pending the implementation of such a code, RTÉ agreed to

enter into an arrangement with the Commission. This agreement provided that the BCC could determine taste and decency complaints relating to RTÉ programming. It was agreed that the standards to be applied would be those outlined in the RTÉ 'Programme Makers' Guidelines'. In late May 2006, RTÉ withdrew from the agreement. The broadcaster informed the Commission that this decision was taken on foot of legal advice they received in the course of seeking a judicial review of a decision of the Commission under taste and decency.

As of 31 December 2006, the BCC received 30 written complaints under the category of taste and decency relating to RTÉ programming. These complaints were forwarded to the broadcaster, who subsequently corresponded directly with the complainants.

The anomaly in the legislation has resulted in the lack of uniformity relating to the manner in which complaints made by the public concerning taste and decency are dealt with. The introduction of a Code of Programme Standards by the Broadcasting Commission of Ireland in 2007 will facilitate uniformity in the complaint process for members of the public.

#### 4.9 Summary table of complaints for 2006

*Total eligible complaints submitted during 2006: 294*

Complaints Received in 2006 Breakdown by Category	Qty
Impartiality	134
Taste & Decency	73
General Advertising Codes	74
Children's Advertising Codes	1
Slander	2
Invasion of Privacy	3
Law & Order	7

#### 4.10 Summary tables of complaint status

##### a) year 2006

Status of Complaints made in 2006	Qty
Resolved at correspondence stage	145
Board Complaint Decisions by year end	
Upheld	9
Rejected	79
Invalid	2
Frivolous & vexatious	2
Withdrawn by complainants/anonymity	12
Still in process as of 31 December 2005	45

##### b) year 2005 brought forward: 66 complaints

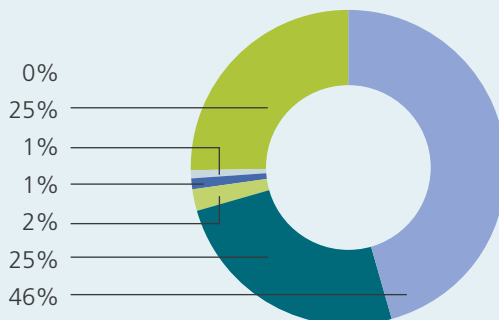
Status of Complaints brought forward from 2005	Qty
Resolved at correspondence stage	30
Requiring Board Consideration	32
Upheld	7
Rejected	21
Frivolous & Vexatious	1
Invalid	1
Closed due to no audio	2
Withdrawn (anonymity not granted)	2
Invalid	2

#### 4.11 Summary table of complaints considered by Board in 2006

Complaints Considered by Board in 2006	Qty
Complaints made during 2006	92
Complaints brought forward from 2005	32
<b>Decisions:</b>	
Upheld	16
Rejected	100
considered frivolous & vexatious	3
closed due to no audio	2
Invalid	3

Complaint Categories 2006

Children's Advert Codes	0%
General Advert Codes	25%
Slander	1%
Privacy	1%
Law & Order	2%
Taste & Decency	25%
Impartiality	46%





## 1. AN FICHE HOCHTÚ TUARASCÁIL BHLIANTÚIL

- 1.1 Is í seo an fiche hochtú tuarascáil bhliantúil ón gCoimisiún um Ghearáin Craolacháin (BCC) chuig an Aire Cumarsáide, Mara agus Acmhainní Nádurtha don bhliain dar chríoch 31 Nollaig 2006, de réir Ailt 25 den Acht Craolacháin 2001.

## 2. COMHALTAÍ AN CHOIMISIÚIN

- 2.1 B'iad comhaltaí an Choimisiúin ar an 31 Nollaig:

Mr. Michael G. MacGrath (Cathaoirleach)  
Mr. Joseph Brady  
Ms. Phil Brady  
Mr. John Donohoe  
Dr. Eucharía Meehan  
Ms. Susan Nolan  
Ms. Miriam O'Callaghan  
Mr. Seán O'Sullivan  
Mr. David Tighe

- 2.2 Tá téarma ceapacháin an Choimisiúin go dtí Deireadh Fómhair 2010 nó go dtí go mbunófar comhlacht nua de réir an Bhille Craolacháin, pé acu is giorra.
- 2.3 Tháinig an Coimisiún le chéile deich n-uaire le linn an tréimhse atá faoi athbhreithniú. Rinneadh 124 ghearáin a phróiseáil go hiomlán le linn an tréimhse sin agus seoladh na cinntí ar aghaidh chucu siúd a rinne na gearáin agus chuig na craoltóirí agus/nó na fógróirí ábhartha. Bhí ar an gCoimisiún dhá ghearáin a dhúnadh toisc nach raibh an t-ábhar fuaimne ábhartha ar fáil.
- 2.4 Cuirtear cinntí an Choimisiúin ar fáil go poiblí trína scaipeadh ar an bpreas náisiúnta agus trína a seoladh go láithreán gréasáin an Choimisiúin.

Cuireann an Coimisiún faisnéis ar fáil ar a láithreán gréasáin, [www.bcc.ie](http://www.bcc.ie). Seoltar gach gearán agus gach foilseachán go dtí an láithreán sin. Tá seoladh agus uimhir teileafóin an Choimisiúin ar fáil chomh maith sna heolaithe teileafóin.

De réir aidhm an Choimisiúin seirbhís éifeachtach agus follasach a sholáthar, thug an Coimisiún gealltanas i leith spríoch-chreat ama le gearáin a phróiseáil. Tug sé gealltanas freisin na mionsonraí sin a chur ar fáil go poiblí trína bhfoilsíú i dTuarascáil Bhliantúil an Choimisiúin.

Tá scála ama bunúsach ag an bpróiseas gearáin atá bunaithe ag reachtaíocht chraolacháin:

## Próiseas Gearáin: ceisteanna a bhaineann le cúrsaí ama

- Ní mór gearán a dhéanamh laistigh de 30 lá den chraolachán.
- Chomh luath is a ghlactar leis go bhfuil gearán bailí, seoltar ar aghaidh go dtí an craoltóir agus/nó an fógróir agus/nó an léiritheoir neamhspleách é agus tá 21 lá acu sin leis an ngearán a fhreagairt más mian leo sin.
- Seoltar ar aghaidh ansin an fhreagairt a rinne an craoltóir agus/nó an fógróir agus/nó an léiritheoir neamhspleách chuig an té a rinne an gearán. Tá 14 lá ansin ag an té sin a chur in iúl do BCC nach bhfuil sé/sí sásta leis an bhfreagairt agus gur mian leo go gcuirfí an gearán os comhair Bhord an Choimisiúin lena bhreithniú agus chun teacht ar chinneadh.
- Bíonn cruinnithe ag an mBord tuairim is 10 n-uaire sa bhliain. Tar éis gach cruinníú, déanann an Coimisiún a dhícheall na cinntí ar fad a scaipeadh, laistigh de sheachtain amháin, ar na páirtithe ábhartha.
- Cuirtear an t-ábhar (i.e. na hachóimrí ar na gearáin) ar fáil go poiblí ag am nach giorra ná trí lá é tar éis do na cinntí a bheith scaipthe ar na páirtithe ábhartha.

1. **Gearáin réitithe** (i.e. glacann an gearánaí leis an míniú a thugann an craoltóir) is é 29 lá ar an meán an scála ama chun gearáin den chineál sin a phróiseáil.
2. **Gearáin a mbíonn breithniú an Bhoird riachtanach dóibh:** ag glacadh leis na scálaí ama atá mionsonraithe thuas críochnaítear an próiseas i gceann 90 lá nó níos lú. Cinntíonn an dáta ar a bhfuarthas an gearán i ndáil leis an gcéad chruinníú eile den Bhord an scála ama. Mar shampla i 2004 próiseáladh líon áirithe gearán sa chatagóir sin laistigh de 40 lá. Ag glacadh leis na scálaí ama atá curtha isteach sa phróiseas, áfach, is é 80 lá an meán don chatagóir seo.

Déanfaidh an Coimisiún dian-mhonatóireacht ar an scála ama don phróiseas gearáin.

- 2.5 Lean an Coimisiún ar aghaidh ag spreagadh feachtas faoina sheirbhísí le linn 2006. Tugadh faoi feachtas bileog agus póstaer ag tús na bliana. Scaipeadh eolas ar leabharlanna, scoileanna agus ar oifigí poist áitiúla agus réigiúnda ar fud na tíre.

Freisin chuir an Coimisiún brat-fhógraí sa Phreas Náisiúnta ar na leathanaigh liostáil teilifíse. Bhí sé beartaithe go gcuirfeadh an Coimisiún foirm ghearáin ar-líne ar fáil le linn 2006. De bharr chur i bhfeidhm an Chód Chaighdeán Cláir agus an Chód Ghinearálta Fógraíochta nua i 2007, áfach, cuireadh an togra sin siar go 2007. Idir an dá linn, is féidir le daoine den phobal gearán a dhéanamh leis an bhfoirm ghearáin ar láithreán Gréasáin an Choimisiúin, [www.bcc.ie](http://www.bcc.ie).

### 3. FEIDHMEANNA AN CHOIMISIÚIN

- 3.1 Comhlacht neamhspleách reachtúil is ea an Coimisiún um Ghearáin Chraolacháin (CGC). 'Sé an tasc atá aige gearáin faoi ábhar a chraoltar a mheas agus moltóireacht a dhéanamh orthu, idir chláracha agus fógraí, maidir le claontacht san nuacht agus i gcúrsaí reatha; caoinbhéasa agus cuibheas; ord agus dlí; príobháideachas an duine; cóid fógraíochta; clúmhilleadh; ábhar foilsithe i leith RTÉ; agus toirmisc Airí.
- 3.2 Tig le héinne den lucht féachana nó den lucht éisteachta gearán a chur faoi bhráid an Choimisiúin muna mbíonn siad sásta le hábhar a chraoltar ar sheirbhís craolacháin Éireannach faoi aon cheann de na catagóir atá liostáilte thuas.
- 3.3 Gabhann Téarmaí tagartha an Choimisiúin as achtanna éagsúla reachtúla, an ceann is deanaí an tAcht Craolacháin, 2001.

### 4. GEARÁIN

- 4.1 Ní mór gach gearán a aighniú i scríbhinn agus caithfear ainm agus seoladh an ghearánaí, am agus dáta an craoladh, ainm an stáisiúin, an catagóir faoina bhfuil an gearán á aighniú agus cur síos gairid ar an gclár nó ar an bhfógra ábhartha a shonrú.
- 4.2 Seoltar ar aghaidh litir an ghearánaí chuig an gcrualtóir ábhartha a bhfuil aon lá is fiche aige an litir ghearáin a fhreagairt, má's mian leis. Má's faoi chlár a léirigh comhlacht neamhspleách atá an gearán béidh cead ag an gcomhlacht freagairt chomh maith. Mar an gcéanna, má's faoi fhógra atá an gearán, beidh cead ag an ngníomhaireacht fógraíochta an gearánaí a fhreagairt chomh maith.
- 4.3 Má bhíonn an gearánaí sásta leis an bhfreagairt/na freagairtí, meastar go bhfuil an gearán réitithe agus dá réir sin, dúnta.

- 4.4 Muna mbíonn an gearánaí sásta leis an bhfreagairt/na freagairtí, scaiptear gach comhfhreagras gearánta ábhartha maraon le taifead den gcrualadh ábhartha ar Chomhaltá an Bhoird lena bhreithniú agus le teacht ar chinneadh.
  - 4.5 Faoin 31 Nollaig, 2006, fuair an Coimisiún 294 gearán a bhí inghlactha. Freisin, tugadh 66 chás ar aghaidh ón bhliain 2005. Den sin, thoil 32 acu breithniú agus cinneadh ón mBord.
  - 4.6 As na gearáin a fuarthas iad i 2006:
    - réitíodh 145 ag céim an chomhfhreagrais. Ghlac na gearánaithe le tuairimí na gcrualtóirí agus/nó na bhfógróirí agus/nó na léiritheoirí neamhspleácha agus dá réir sin ní raibh gá go ndéanfadh an Coimisiún um Ghearáin Chraolacháin a thuilleadh iniúchadh orthu.
    - bhí breis iniúchadh de dhíth ar 92 gearán agus dá bhrí sin rinne Bord an Choimisiúin breithniú orthu.
    - tharraing na gearánaithe siar 12 gearán, go príomhach de bharr cheisteanna a bhain le príobháideachas.
    - ag an 31 Nollaig, 2006, bhí próiseáil á déanamh ar 45 chás.
  - 4.7 Fuarthas go raibh 158 gearán neamh-bhailí mar gheall ar chúrsaí ama, nó faisnéis neamh-iomlán nó nár tháinig siad laistigh de scóip théarmaí tagartha BCC agus/nó na gcatagóir ábhartha gearáin.
  - 4.8 Níor ghlac an crualtóir le cinneadh an Choimisiúin ag a chruinniú deireannach i 2005 seasamh le gearán i gcoinne míre a craoladh ar RTÉ. I Mí Feabhra, 2006, d'éiligh an stáisiún athbhreithniú breithiúnach ar chinneadh an Choimisiúin. Bhain an gearán le húsáid íomhánna reiligiúnda le linn tuairisc nuachta faoi Bhínse Fiosrúcháin Fhearna. Ar an 31 Nollaig 2006, bhíothas fós ag feitheamh ar an éisteacht.
- De bharr neamhréireachta san Acht Craolacháin, 2001, ní bhaineann cumhachtaí reachtúla BCC le gearáin faoi chaoibhéasa nó cuibheas i gcoinne RTÉ. Fanfaidh sin amhlaidh go dtí go dtugann Coimisiún Craolacháin na hÉireann isteach Cód Chaighdeán Cláir. Ar feitheamh chur i bhfeidhm chóid den chineál sin, rinne RTÉ

socrú a chomhaontú leis an gCoimisiún. De réir an chomhaontaithe sin is féidir le BCC gearáin i gcoinne cláir RTÉ a bhaineann le caoinbhéasa agus cuibheas a bhreithniú. Comhaontaíodh gurb iad na caighdeáin a gcuirfí i bhfeidhm na caighdeáin sin a bhfuil breac-chuntas orthu i 'dTreoirínte Lucht Déanta Clár' RTÉ. Go déanach i Mí Bealtaine, 2006, tharraing RTÉ siar ón tsocrú sin. Chuir an craoltóir in iúl don Choimisiún gur glacadh an cinneadh sin de bhun chomhairle dlí a fuair eadar de bharr go raibh an stáisiún ag éileamh athbhreithniú breithiúnach ar chinneadh de chuid an Choimisiúin a bhain le caoinbhéasa agus cuibheas.

Faoin 31 Nollaig 2006, bhí 30 ghearán i scríbhinn faighte ag BCC faoi chatagóir an chaoinbhéasa agus an chuibhis a bhain le cláir RTÉ. Cuireadh na gearáin sin ar aghaidh go dtí an craoltóir, a rinne comhfhreagras díreach ina dhiaidh sin leis na gearánaithe.

Mar thoradh ar an neamhréireacht sa reachtaíocht tá easpa comhionannais sa tslí a phléitear le gearáin a dhéanann an pobal a bhaineann le caoinbhéasa agus le cuibheas. Nuair a thugann Coimisiún Craolacháin na hÉireann isteach Cód Chaighdeán Cláir i 2007 eascoidh sé sin comhionannas sa phróiseas gearáin do dhaoine den pobal.

#### 4.9 Tábla Achoimre na ngearán don bhliain 2006

lomlán na ngearán inglactha ar aighníodh iad le linn 2006: 294

Gearáin a fuarthas iad sa bhliain 2006 Miondealú de réir Chatagóir	Líon
Neamhchlaontacht	134
Oiriúnacht agus cuibheas	73
Cóid Ghinearálta Fógraíochta	74
Cód Fógraíochta do Pháistí	1
Clúmhillleadh	2
Sárú ar Phríobháideacht	3
Ord agus dlí	7

Na Catagóirí Gearáin, an Bhliain 2006

Cód Fógraíochta do Pháistí	0%
Cóid Ghinearálta Fógraíochta	25%
Clúmhillleadh	1%
Príobháideacht	1%
Ord agus dlí	2%
Oiriúnacht agus cuibheas	25%
Neamhchlaontacht	46%

#### 4.10 Táblaí Achoimre de stádas na ngearán

##### a) bliain 2006

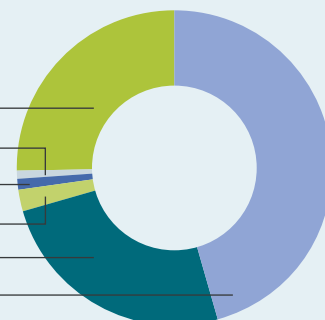
Stádas na ngearán a rinneadh iad sa bhliain 2006	Líon
Réitithe ag céim an chomhfhreagrais	145
Cinntí Boird i Leith Gearán faoi dheireadh na bliana	
Glactha	9
Diúltaithe	79
Neamhbhailí	2
Neamhthábhachtach agus cráiteach	2
Tarraingthe siar ag gearánaithe	12
Fós sa phróiseas ar an 31 Nollaig 2005	45

##### b) Bliain 2005 tugtha ar aghaidh: 66 gearán

Stádas na ngearán ar tugadh ar aghaidh iad ó 2005	Líon
Réitithe ag céim an chomhfhreagrais	30
Breithniú an Bhoird de dhíth	32
Glactha	7
Diúltaithe	21
Neamhthábhachtach agus cráiteach	1
Neamhbhailí	1
Dúnta de bharr easpa chlosábhair	2
Tarraingthe siar acusan a rinne an gearán/ceisteanna anaithnide	2
Neamhbhailí	2

#### 4.11 Tábla na ngearán a rinne an Bord breithniú orthu sa bhliain 2006

Gearáin a rinne an Bord breithniú orthu sa bhliain 2006	Líon
Gearáin ar rinneadh iad sa bhliain 2006	92
Gearáin ar tuga ar aghaidh iad ón bhliain 2005	32
<b>Cinntí:</b>	
Glactha	16
Diúltaithe	100
Measadh go rabhadar neamhthábhachtach agus cráiteach	3
Dúnta de bharr easnamh chlosábhair	2
Neamhbhailí	3



## 5. SUMMARY OF COMPLAINTS

The following is a list of the complaints decided upon by the Broadcasting Complaints Commission during 2006. The complaints are listed in the order of upheld complaints first and then in order of the complaint category, 24(2) (a – h):

### 5. ACHOIMRE NA NGEARÁN

Seo a leanas liosta na ngearán ar ghlac An Coimisiún um Ghearáin Chraolacháin cinneadh futhu le linn 2006. Liostáiltear na gearáin in ord na ngearán ar seasadh leo ar dtús agus ansin in ord chatagóra na ngearán, 24(2)(a – h):

#### 5.1 *Complaint made by: Mr. Thomas Higgins* *Ref. No. 234/05*

**Station:** RTÉ Radio 1  
**Programme:** Today with Pat Kenny  
**Date:** 25 November 2005

#### Complaint Summary:

Mr. Higgins' complaint, under Section 24(2)(a)(impartiality) of the Broadcasting Act 2001, refers to an invitation made by Ms. Valerie Cox for Mr. Higgins to guest on the 'Today with Pat Kenny' show. Prior to his appearance on the show, Ms. Cox recorded 5 telephone-psycho readings (within the space of one afternoon) with employees of Irish Psychics Live. Mr. Higgins advised Ms. Cox that a handful of readings obtained in this manner over such a short period of time could not be used to definitively represent the quality of readings provided by Irish Psychics Live.

Ms. Cox reported live in studio that she had found 'nothing of value' in the readings. Six out-of-context sound bytes were played on air: These had been carefully chosen to underline a trenchant view expounded by Pat Kenny, that all readings offered by Irish Psychics Live are 'rubbish' and 'worthless'. This assessment seems to have been based exclusively on the report and recordings provided by Ms. Cox on Mr. Kenny's privately held beliefs.

He states RTÉ failed entirely to ensure that it met its obligations to present its programme on this issue in a fair, objective and impartial manner. This was evidenced by the fact that Pat Kenny accused Mr. Higgins' company of being 'bogus' and, therefore, 'fraudulent'. There was no attempt to present a balanced view of this

issue. In particular, RTÉ quoted a document provided by an effectively anonymous source, live on air, and in doing so failed to quote significant parts of the document, which would have entirely negated the unfair spin placed on the document by the source and by RTÉ. The allegations made by RTÉ were grossly defamatory of Mr. Higgins and his company. Some of these allegations were presented in a raised voice that could only be regarded as shouting.

#### Station's Response:

RTÉ in their response state Mr. Higgins is the Managing Director of a company called Realm Communications Limited. This company operates Irish Psychics Live. Mr. Higgins was invited onto the 'Today with Pat Kenny' programme to be interviewed by the programme presenter. The item opened with a report from Valerie Cox who informed listeners that she had spent over €200 talking to five, so-called, psychic readers. Her report included extracts from these readers as they tried to inform Ms. Cox about various aspects of her life. Any reasonable assessment of the report would conclude that the entire psychic-reading exercise is a charade and that the only purpose of Irish Psychics Live is to exploit vulnerable people by prolonging their phone calls and in the process extract the maximum amount of money from the callers.

At the end of the report, Pat Kenny put to Mr. Higgins that his operation was "unadulterated spoof and complete rubbish". Mr. Kenny based this opinion on Ms. Cox's report. Mr. Higgins was given the opportunity to defend his company's performance.

RTÉ further state that the interview was a robust, spirited affair which covered the issue of the regulator for premium calls requiring that customers have to be informed when the cost of a call exceeds thirty euro. In five phone calls to Irish Psychics Live, all of which cost more than thirty euro, Ms. Cox was not informed that she had exceeded this limit. This was put to Mr. Higgins who offered no reasonable defence for this clear breach of regulations. Mr. Higgins' complaint has no validity whatsoever. His company was caught out deceiving vulnerable people. He was given an opportunity to defend his company. He failed to do so with any credibility.

#### Decision of the Commission:

The Commission considered the broadcast material, the submissions made by the complainant and the broadcaster. The complaint made by Mr. Thomas Higgins has been upheld with reference to Section

24(2)(a)(impartiality) of the Broadcasting Act, 2001. This interview concerned the service offered by Irish Psychics Live. The Commission would acknowledge that the subject matter was of public interest and, therefore, one would expect the interview to be conducted in a firm and robust manner. However, the Commission noted that the presenter uttered statements throughout the broadcast piece that were an expression of his own opinions. While playing the devil's advocate is an acceptable interviewing style, the Commission believes that the interviewer in both tone and content persisted with statements and allegations in a partial manner and concludes that the interviewer dealt with the subject matter in an unfair manner. The complaint was upheld.

**5.2** *Complaint made by: Ms. Samantha Pemberton  
Ref. No. 269/05*

**Station:** RTÉ Radio 1  
**Programme:** Today with Pat Kenny  
**Date:** 25 November 2005

### Complaint Summary:

Ms. Pemberton's complaint, together with those of six of her colleagues, under Section 24(2)(a)(impartiality) and (f)(slander) of the Broadcasting Act 2001, refers to an interview with the Managing Director of Irish Psychics Live, Mr. Tom Higgins about the service provided by employees of Irish Psychics Live. Ms. Pemberton states that she is proud to be part of a small group of psychics based in Ireland, who work for Irish Psychics Live. She is proud of her job and her psychic abilities which she developed as a child. By describing Irish Psychics Live readings (and therefore the readers) as 'utterly worthless' and 'bogus' and stating that they 'exploit vulnerable people' and other similar remarks, Ms. Pemberton claims Pat Kenny discriminated against her and ridiculed her most deeply held beliefs. They infer that her beliefs and those of the people she works with are not genuinely held and that she and others in the service are 'charlatans' who seek to profit by fraudulent means.

Furthermore, Ms. Pemberton believes that although Mr. Higgins, owner of Irish Psychics Live, was in the studio for interview, he was not in any position to represent her, nor her colleagues views, as he is not a psychic. She listened to the show and was shocked with the snippets of reading that were played. Although she could understand the presenter and the investigator's reactions to the very small segments of readings played on air, she did not think that the readings Ms. Cox received would have provided Mr. Kenny with the

knowledge or understanding of psychic abilities to allow him to make such sweeping and derogatory statements. Ms. Pemberton states that she has never abused her position or talents 'by keeping people on the phone'. In all her dealings with Realm Communications, they have constantly stated the need to remind customers of the price and length of a call they are receiving. She has never heard or known of anyone who was requested to 'keep people on the line for as long as possible'. This is not only unethical but illegal. No one forces people to call her. They do so by choice and can hang up at any point. By suggesting that her readings are 'bogus', that she seeks to 'exploit the vulnerable' and that her beliefs are not genuinely held by others, Ms. Pemberton believes RTÉ and Pat Kenny made slanderous remarks against her and her colleagues.

Since the programme was broadcast, Ms. Pemberton claims that she has noticed a change in the way people she knows treat her. Pat Kenny's attack on her and other psychics, shows contempt for minority groups such as hers and is a form of racism, if not religious intolerance. Furthermore, by not allowing Ms. Pemberton or one of her colleagues put their views forward and defend themselves against the allegations, RTÉ and Pat Kenny, failed to conduct a balanced interview.

### Station's Response:

RTÉ in their response state that the Managing Director of Irish Psychics Live, Mr. Tom Higgins, was invited onto the show to be interviewed by Pat Kenny about his company. Before the interview began, a report from Valerie Cox was aired, in which she informed listeners that she had spent over €200 talking to five, so-called, psychic readers. Her report included extracts from these readers as they tried to inform Ms. Cox about various aspects of her life. Any reasonable assessment of the report would conclude that the entire psychic-reading exercise is a charade and that the only purpose of Irish Psychics Live is to exploit the maximum amount of money from the callers.

At the end of the report, Pat Kenny put to Mr. Higgins that his operation was 'unadulterated spoof and complete rubbish'. Mr. Kenny based this opinion on Ms. Cox's report. Mr. Higgins was given the opportunity to defend his company's performance. The interview was a robust, spirited affair which covered the issue of the regulator for premium calls requiring that customers have to be informed when the cost of a call exceeds thirty euro. In five phone calls to Irish Psychics Live, all of which cost more than thirty euro, on not one occasion was Ms. Cox informed that she had exceeded

thirty euro. This was put to Mr. Higgins who offered, in effect, no reasonable defence for this clear breach of regulations. Mr. Kenny also put to Mr. Higgins that the insights which his, so-called, readers provided for Ms. Cox were utterly without value. Mr. Higgins replied with an explanation based around the negative attitude of Ms. Cox and the absence of energy as a result which would have helped his gifted readers. Pat Kenny treated this response appropriately.

RTÉ state that Ms. Pemberton's complaint has no validity whatsoever. Her company was caught out deceiving vulnerable people. Her employer was given an opportunity to defend his company and he failed to do so with any credibility. The fact that Ms. Pemberton and her colleagues believe they are offering a psychic service and that they are not involved in an exercise of exploitation of vulnerable people is entirely irrelevant.

### Decision of the Commission:

The Commission has considered the broadcast material, the submissions made by the complainant and the broadcaster. The complainant asserted that this broadcast was slanderous. In the context of the interview, Psychics were discussed in a general manner only. There were no specific references that would identify any particular Psychic. As there were no individuals named or identifiable in this broadcast, the broadcasting regulation concerning slander does not apply. Therefore, the Commission was not in a position to make a determination on this part of the complaint.

In relation to impartiality, the Commission upheld the complaint with reference to Section 24(2)(a). This interview concerned the service offered by Irish Psychics Live. The Commission would acknowledge that the subject matter was of public interest and, therefore, one would expect the interview to be conducted in a firm and robust manner. However, the Commission noted that the presenter uttered statements throughout the broadcast piece that were an expression of his own opinions. While playing the devil's advocate is an acceptable interviewing style, the Commission believes that the interviewer in both tone and content persisted with statements and allegations in a partial manner and concludes that the interviewer dealt with the subject matter in an unfair manner. The complaint was upheld.

### 5.3 Complaint made by: Mr. Michael Walsh Ref. No. 18/06

**Station:** Newstalk  
**Programme:** The Breakfast Show with Eamon Dunphy  
**Date:** 13 January 2006

### Complaint Summary:

Mr. Walsh's complaint, under Section 24(2)(a)(impartiality) of the Broadcasting Act 2001, refers to a discussion between the Presenter, Eamon Dunphy and Liam Doran of the Irish Nurses Organisation. He states the broadcast dealing with work practices among theatre nurses at the Mid-Western Regional Hospital was inaccurate, prejudiced and in breach of the impartiality requirements. It falsely accused the HSE of leaking information and failed to give the HSE an opportunity to state its case by way of an interview or statement – although both were offered. It also neglected to tell listeners that Newstalk first made arrangements to interview a HSE manager on the subject and then at 9.30pm on Thursday, January 12, cancelled on the basis that the item was no longer required for Friday am because of a further major development in the Luas controversy in Dublin.

Mr. Walsh feels Eamon Dunphy ignored his obligation to cover a matter of current public debate in a manner fair to all interests – including the HSE – and without expression of his own views. In the expression of his views, the HSE was repeatedly referred to in a hostile, sarcastic and inaccurate fashion e.g.

- (1) "We told them to go".
- (2) His personal view of the HSE Chief Executive, Professor Drumm.
- (3) "They ain't getting away with this anymore... neither are any politicians incidentally".

### Station's Response:

Newstalk states that the Producer of the Breakfast Show is confident of the validity of its source of information and is happy to stand over this point. The HSE was offered an opportunity to debate the issue with a representative of the Irish Nurses Organisation but this request was flatly refused by the HSE stating that it is the Executive's policy not to debate issues live on air. Over the course of the six minute interview, Eamon

Dunphy informed listeners on the position of the HSE and their availability for interview. He told listeners the HSE 'declined to put someone up to debate this with Liam Doran', that the HSE 'weren't anxious to debate this question...', that '...they are not prepared to come on and discuss the allegation with you...' and that the HSE 'are not prepared to engage in debate...'. The Breakfast Show researcher called Mr. Walsh to cancel the interview with Mr. O'Brien due to a story about the Luas network, but at no stage was it stated that 'the item was no longer required'. The policy of the HSE to refrain from on air discussions makes it extremely difficult for broadcasters to 'cover a matter of current public debate in a manner fair to all interests...'.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The presenter interviewed Mr. Liam Doran of the Irish Nurses Organisation. The interview was based on a newspaper article concerning references in a HSE report on the work practices of nurses in the Mid-Western Region. The Commission noted that the HSE was offered the opportunity to participate in the discussion live on-air with Mr. Doran, but declined to do so. The Commission was of the view that Newstalk was still entitled to cover the story. The subsequent discussion included Mr. Doran giving the views and opinions of the INO, which contradicted a number of the allegations in the report. The Commission would acknowledge that from the outset, the listener was made aware that Mr. Doran represented the nurses and that the opposing view would not be heard as the HSE declined to participate live on-air. However, the Commission would also acknowledge that the HSE had a right to decline to participate live on-air. This should not preclude the HSE from being offered another means of response. The presenter clearly stated on-air

*'We are joined now by Liam Doran, General Secretary of the Irish Nurse's Organisation and we did ask the HSE to put somebody up. They declined to put someone up to debate this with Liam Doran, so we told them to go away'.*

The Commission is of the opinion that the broadcaster did not afford the HSE an adequate right of reply on this occasion. Given the critical nature of the discussion and the lack of balance, this broadcast was unfair to the HSE.

The Commission would acknowledge that the subject matter was serious and of public interest. Also, the discussion was initiated by facts that were in the public

domain, via an article in the print media. However, a broadcaster is still obliged to be fair to all interests concerned. The presenter introduced the item as 'a remarkable attack on nurses yesterday by the HSE in the mid-West Region'. The interview then proceeded with a discussion on some of the allegations made in the report. Subsequent to this, the presenter expressed views on the HSE and how it was being run by the new CEO and stated; 'the other thing that is rather disturbing and I'd like to ask you about' the new CEO, 'but things don't seem to be changing much'. Mr. Doran was allowed to state his views and opinions on the HSE without question or challenge. The interview in question was not conducted in a manner which sufficiently reflected both sides of the discussion. The Commission noted that near the end of the discussion the presenter stated; 'I think the public will have got the picture here. It's a propaganda war as far as they are concerned and which they're not even prepared to engage in debate and they aint getting away with this anymore on this programme, neither are the politicians incidentally'. The content of the programme was unfair to the HSE as it did not offer them a fair-right-of-reply and also, the interview was not conducted in a balanced manner. The complaint was upheld with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

#### 5.4 Complaint made by: Ms. Catherine Clancy Ref. No. 21/06

**Station:** Shannonside FM  
**Programme:** Shannonside Today with Séamus Duke  
**Date:** 25 January 2006

### Complaint Summary:

Ms. Clancy's complaint, under Section 24(2)(a)(impartiality) of the Broadcasting Act 2001, refers to a live broadcast of the 'Shannonside Today with Séamus Duke' programme from a hotel in Boyle during which a decision made by An Bord Pleanála concerning a hotel/holiday home development was discussed. The presenter began the show by stating that while he recognised that it was his role to remain impartial he could not be impartial on this occasion. He then went on to stridently criticise An Bord Pleanála and the parties associated with the appeal, and to praise the developers behind the project. Subsequently, he interviewed a series of public representatives, all of whom agreed with his views. Towards the end of the hour long broadcast, a member of the audience came forward to offer a view as to why the An Bord Pleanála decision was correct. He attempted to quote a section from an EU Directive that

was relevant to the decision, but was not allowed to do so by Mr. Duke. At one stage, Mr. Duke shouted at him, 'Nobody cares about that, what about the 500 jobs?' The broadcast ended in somewhat of a frenzy with Mr. Duke joining in with the audience in berating the man who was attempting to quote the EU Directive.

In general, the complainant does not accept that partisan broadcasting is justified by the weight of public opinion; on the contrary, impartiality is of greater importance when public opinion appears to weigh strongly against the minority view.

### Station's Response:

Shannonside FM in its response states the programme in question features local current affairs and on occasion, will come live from a town or region in the area if there is a big story there. On 24 January the Shannonside Newsroom learned that a planned tourism development in Boyle had been turned down by An Bord Pleanála. The reaction on that Monday was one of the biggest they ever experienced since the station opened in 1989. They decided to do a live programme in Boyle to discuss the decision and they invited anyone who wanted to participate to come along. Their aim was to measure the reaction among people affected most by the decision; that is the people of Boyle. A big crowd attended on the day and the reaction was almost totally unanimous in support for the development and it was generally felt that the will of the vast majority of the people was being ignored in favour of a number of small groups who had objected to the development. Despite this majority view an objector was also given the opportunity to speak and only for time constraints more time would have been allowed for further debate. Séamus Duke interviewed him and asked him why he objected to the development – the crowd became very agitated at his presence. However, he was allowed to speak.

The station strongly refutes the allegations made by the complainant that Séamus Duke would not be impartial on this occasion and that he shouted at the objector. All calls and texts for and against were aired. In fact, the station received a number of complaints about allowing the particular objector on to the programme in the first place but it is their policy to give all sides a 'fair say'.

The station further states that this is a highly emotive issue in the area and during the programme on the following day, another objector was afforded a 20 minute interview to explain the group's case.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The programme was broadcast live from a hotel in Boyle and the subject matter was the unsuccessful application for a tourist development in the local area. The Commission noted that the presenter stated from the outset that he was shocked and angry at the decision made by An Bord Pleanála. He continued to make statements throughout the broadcast that were an expression of his own opinions. It was also noted that on a number of occasions he praised the work of one of the companies that was part of the consortium. The Commission would acknowledge that it was an emotive issue. However, the broadcaster was still obliged to ensure that the subject matter was treated in fair and balanced manner. In this broadcast item all the contributors bar one were opposed to the An Bord Pleanála decision. It was the responsibility of the broadcaster to ensure that both sides of the argument were facilitated in this broadcast. The fact that the majority of people that turned up on the day were 'almost totally unanimous in support for the development' is not relevant to the assessment of this complaint. The broadcaster still had the responsibility to present an impartial and fair programme. However, in the opinion of the Commission, the interview in question was not conducted in a manner which sufficiently reflected both sides of the discussion. The Commission noted that the broadcaster afforded an objector on-air time the following day. However, in the broadcast in question the presenter agreed with, and supported, the opinions of those opposed to the decision. The discussion was one-sided, with no opposing views being expressed. The opponents to the decision were given the opportunity to air their opinions without challenge. Permitting an objector airtime the following day was not sufficient to redress the unfairness of the content and presentation of this broadcast. The Commission was of the opinion that the presenter persisted with statements and opinion in a partial manner. Therefore, this broadcast treated the subject matter unfairly and was not fair to all interests concerned. The complaint was upheld with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.



**5.5** *Complaint made by: Rev. B. Desmond*  
*Ref. No. 81/06*

**Station:** RTÉ 2  
**Programme:** The Unbelievable Truth –  
Colin Farrell's darkest secrets  
**Date:** 28 March 2006

**Complaint Summary:**

Fr. Desmond's complaint, under Section 24(2)(b)(taste & decency) of the Broadcasting Act 2001, refers to a scene in a broadcast in the series 'The Unbelievable Truth'. In the particular scene a man dressed in a priest's vestments and holding a ciborium pretended to distribute Holy Communion to a group of men. Instead of saying 'Body of Christ', he announced 'Body of Colin Farrell', to which the men replied 'Amen'. Then a close-up showed that the vessel contained not the sacred hosts but Viagra pills.

The complainant submits that this tasteless and vulgar display was a mockery of the Blessed Eucharist, the central tenet of the Catholic faith. No reputable broadcasting body would insult the religion held by the majority of the people.

**Station's Response:**

RTÉ submits that the broadcast complained of is one of a series of 'mocumentaries', a genre of programme which sends up documentaries with make believe 'facts' about so-called 'celebrities'. The series 'The Unbelievable Truth' is, by its nature, an iconoclastic programme. The object of the series has been to present in a satirical, iconoclastic manner fictional biographies of high profile Irish celebrities. These fictions were predicated on factual aspects of each featured celebrity's character. Colin Farrell is a successful Hollywood actor who comes from Dublin. He has an image as a hard-living, party-going individual, notorious in particular for his sexual exploits. It was these aspects of Colin Farrell's personality which were satirised in the episode of the 'The Unbelievable Truth' which has led to this complaint.

The objective of the sequence complained of was to satirise the much-publicised sexual prowess of Colin Farrell, and was not intended to mock the institution of the Eucharist. The scene followed a surreal suggestion made in the preceding scenes that Mr. Farrell was physically diminishing in stature because his sexual capacities were being drained by drug manufacturers to produce medication that would benefit men suffering from sexual dysfunction.

It is acknowledged that this scene, along with others in the series, may have pushed at the boundaries of what might, in an earlier schedule slot and on another channel, be regarded as offensive to the religious or sexual sensibilities of some viewers. The series was scheduled on RTÉ 2, a channel associated in viewers' minds with alternative comedy. It was broadcast an hour after the start of the watershed at a time when viewers might expect to see broadcast material which might not be to everyone's taste. While it is acknowledged that Fr. Desmond's sense of offence and grievance is genuine and even understandable, this programme was certainly not aimed at people like Fr. Desmond. It was aimed at an audience with an irreverent sense of humour who would not be offended by its contents.

The series generally aims to satirise some of the stalwarts of Irish celebrity culture – e.g. The Corrs, Bono, Ronan Keating – but does not set out to attack institutions such as the Catholic Eucharist. The narrator of the programme is Colin Murphy. The audience would be familiar with his irreverent style and his humorous mockery of the establishment which is evident in the series he presents on RTÉ 2, 'The Blizzard of Odd'. This channel has developed in recent years an audience expectation of humour aimed at a young adult audience with a high tolerance of a kind of humour older viewers might find tasteless.

The particular scene that has offended Fr. Desmond occurs about halfway through the programme. By this time the lampooning nature of the programme is very evident and the viewer could not be taken unawares by what was to come in the programme. The scene is manifestly satirical. There is no way the characters could be confused for 'real' people. It is not the Eucharist that is being mocked. It is the excessive attention given in a celebrity-driven media to Hollywood stars and the almost religious reverence attributed to their mundane lives.

RTÉ's ambition is to offer its viewers choice and to provide programming that satisfies all sections of its audience. When it comes to comedy this is very difficult as there is no consensus and some viewers are likely to find youth-orientated 'alternative' comedy humourless and offensive. This is clearly what has happened in the case of Fr. Desmond. However, Fr. Desmond did have the choice of not watching 'The Unbelievable Truth'. At the same time on RTÉ 1 he could have chosen to watch 'Prime Time'. It is by expecting members of the audience to exercise their discretion that RTÉ hopes to be able to cater for diversity in values and attitudes in the public.

It is acknowledged that taste and decency considerations must also be taken into account by broadcasters and that these considerations are best put into practice by appropriate scheduling and by ensuring that the audience is not caught unawares by the content and tone of upcoming programming.

In assessing this complaint, a balance has to be struck between the legitimacy of free expression, the diversity of values that exists in Irish society today and the need to avoid giving gratuitous offence.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. This programme was a satirical take on the character and lifestyle of the actor Colin Farrell. The Commission notes that the content was somewhat irreverent from the outset. It was also evident to the viewer that the humour was edgy and flippant. The Commission would also acknowledge that humour often walks a tightrope in regard to taste and decency. However, due care needs to be taken with religious beliefs. In this particular broadcast, a scene included an actor (supposedly Colin Farrell) as a priest performing the sacrament of Holy Communion. The setting is in a church, with four men in attendance and the background music was of a religious nature. In the course of the scene, the actor priest from the altar states *'Look, I know you are horny and I feel your frustration. I'm here to give of my body so that you can eh commit sins. Now who's first, lets go?'* The four men approach the altar and the actor priest states: *'Body of Colin Farrell'*. At the end of the scene the camera zooms in on the 'chalice', which is shown to contain 'viagra'. The Eucharist is central to the Catholic Faith, a sacrament. In common with all religious beliefs, sacraments should be treated with respect. However, in this particular scene, the Eucharist was treated in a totally disrespectful manner. The Commission was of the view that the scene was likely to be offensive to people of particular religious beliefs. Such treatment of any religious belief is inappropriate. The manner in which a sacrament was used for a laugh in this section of the programme went beyond acceptable standards. The Commission was of the opinion that it was offensive. The complaint was upheld with reference to Section 24(2)(b)(taste & decency, pursuant to RTÉ's 'Programme-Makers' Guidelines').

**5.6** *Complaint made by: Ms. Marcella Corcoran  
Kennedy Ref. No. 152/06*

**Station:** TV3  
**Programme:** Ireland AM  
**Date:** 19 July 2006

### Complaint Summary:

Ms. Corcoran Kennedy's complaint, under Section 24(2)(b)(taste & decency) of the Broadcasting Act 2001, refers to an interview on TV3 between the presenter Ms. Maura Derrane, Ms. Amanda Brunner, Journalist and Dr. Crowley. The discussion was around his concerns with the latest plastic surgery procedures gaining popularity in other countries. Those referred to were vaginal and vulval surgery to enhance the visual appearance in the latter and the perceived sexual benefits of the former. Dr. Crowley likened these procedures to voluntary genital mutilation. The discussion was very broad encompassing vibrators, women's right to choose this surgery, quality of sexual activity, porn stars as role models etc. There is no doubt that a debate is needed in this area. However, it is a debate which she believes should not have been conducted during the Ireland AM programme. No viewer warning, regarding the item being unsuitable for children, was given at any point. This, however, would only have benefit if an adult happened to be in the room at the relevant time.

She objects to this item being scheduled for the following reasons:

- Ireland AM is a morning style programme, its viewers feel safe in the knowledge that it is suitable for all the family to view. Much of the content has appeal to children e.g. pet section or bakery section. Indeed, families are the target audience of this breakfast show and she quotes from their own TV3 website description of the show *"the programme has enjoyed phenomenal growth and popularity as Ireland's first television breakfast show. The show is now firmly established as a favourite with families throughout the country"*.
- In scheduling, no consideration appears to have been given to the fact that children are on summer holidays from school and consequently are likely to have greater access to the programme. The fact that this discussion was slotted adjacent to a segment on decorating a young boy's bedroom to give it a "jungle feel" bears this out.

She thinks TV3 have shown great irresponsibility in this matter.

### Station's Response:

TV3 state that Ireland AM is a "magazine" programme. It covers a wide variety of topics. The audience is primarily over eighteen and Ireland AM is not a children's programme as defined by the BCI's code on Children's Advertising.

The topic that was discussed is one that had been reported on widely in print and other media and was primarily concerned with the "Western" approach to genital mutilation as practiced in certain African countries and how this compared with the number of people who were voluntarily having surgery of this kind.

The report was at no point crude, sensationalist or vulgar. TV3 notes that the complainant states that "porn stars as role models" was discussed. They state no such phraseology was used. There was a passing reference to Playmates and Playboy – which is decidedly not the same as "porn stars". Likewise, the "quality of sexual activity" and "vibrators" were not mentioned in any detail at all. The topic was treated appropriately at all times and was kept firmly within context i.e. the serious issue of comparing mutilation of children as against elective surgery and why in Western Europe this was considered appropriate.

Given that the topic was sensitively handled and was broadcast in a programme which is not a children's programme, TV3 believes this matter was entirely appropriately dealt with. Ireland AM covers adult medical issues in a responsible and informative fashion. Scheduling and Context are key elements in regard to the BCI's current consultative process on Taste & Decency.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The broadcast item was introduced as a discussion on women who elect to have vaginal surgery and how this compared, if at all, to the practice of female genital mutilation. The Commission would acknowledge that such a topic is appropriate for a broadcaster to address. However, they must do so with due care. In the course of this particular discussion, the Commission is of the opinion that gratuitous comments were made. This included one of the interviewees referring to 'a vibrator and batteries, batteries are cheap'. The other interviewee said that she checked

with the programme researcher if she could mention a specific term. She then proceeded to bring 'anus bleaching' into the discussion. The Commission is of the opinion that the tone of such references was gratuitous and also, these references were not in keeping with the context of the discussion.

Given that the content was of an explicit nature, the Commission had to have regard to the time of broadcast. This discussion was aired at approximate 9.20 a.m. The Commission also had to have regard to the date of broadcast. This programme was broadcast on 19 July, which is during the school holiday period. While the Commission acknowledges that Ireland AM is not a children's programme, this does not exclude its responsibility to take due care when broadcasting programmes containing such sexual content. It was likely that at 9.20 a.m. during the school holiday period, children could be part of the audience for Ireland AM. Therefore, the Commission is of the opinion that in the circumstances the content of the broadcast was inappropriately scheduled and breached acceptable standards. The complaint was upheld with reference to Section 24(2)(b)(taste & decency) of the Broadcasting Act, 2001.

**5.7** *Complaint made by: Mr. Kevin Ryan  
Ref. No. 192/06*

**Station:** TG4  
**Programme:** Comórtas Scannáin TG4  
**Date:** 14 August 2006

### Complaint Summary:

Mr. Ryan's complaint, submitted under Section 24(2)(b)(taste & decency), relates to the broadcast of a film on TG4. He was shocked with the content to see a teenage girl being stabbed in it whilst babysitting. Surely this could not be described as suitable viewing before 9 p.m. He states he is not easily shocked but that was surely crossing the line.

### Station's Response:

TG4 submit that the broadcast item complained of was a short drama, *An Fear Grinn*. This was one of the shortlisted entries in the channel's *Comórtas Fiseán 2006*. This is an annual national competition organised by TG4, for which Transition Year students from schools throughout the country submit story outlines and a script. TG4 selects a shortlist of entries and then provides resources and professional television expertise

to produce the selected projects for broadcast. A national winner is then selected from these completed productions. All of the shortlisted productions are broadcast on TG4.

The video complained of is a slightly surreal story about mysterious happenings in a house where the normal exterior seems to hide strange events on a regular basis. Whilst it undoubtedly has dark undertones and does contain the stabbing incident complained of, it is important to point out that it was devised, scripted and produced by the Transition Year students of Our Lady's School, Terenure, Dublin 6W, with the assistance and advice of their teachers. Given the background and genesis of this production, it was all the students' own work, TG4 considers that it was eminently suitable for broadcast in the slot provided.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The broadcast item was a short drama, the scenario of which was the experience of a babysitter in a 'haunted' house. The Commission noted that the drama took a very familiar and natural scene/experience to children and turned it into a 'horror' type experience, which included a murder scene. The Commission acknowledges that the short drama was made by transition year students. However, such students are typically aged 15 years and over. This broadcast was scheduled just after 6 p.m. by TG4. The Commission was cognisant of the fact that younger children were likely to be in the audience at that time. Therefore, the broadcaster must take due care with its broadcast output at such time.

In the opinion of the Commission younger viewers could have found the tone of the piece menacing. Also, they could have found the character of the 'clown' in the drama particularly sinister. The Members acknowledge that the murder scene included no blood effects. However, for younger viewers it was a violent scene.

In this broadcast, a situation familiar to many children, i.e. babysitters, was presented in a manner which younger children could have found to be menacing and violent. Therefore, the content was not appropriate for younger viewers. The Commission was further of the opinion that this broadcast should either have been preceded by a warning alerting viewers to such content; or preferably broadcast after the 9 p.m. watershed. The complaint was upheld due to the menacing and violent nature of its content in the context that younger

viewers were likely to be in the audience at the time of broadcast.

**5.8** *Complaint made by: Mr. Paul Bennett  
Ref. No. 233/06*

**Station:** TV3  
**Programme:** Chicago Hope  
**Date:** 20 September 2006

### Complaint Summary:

Mr. Bennett's complaint, submitted under Section 24(2)(b)(taste & decency), relates to an episode of Chicago Hope broadcast at 14:35 on 20 September 2006. The complainant objects in particular to the storyline which centres around a situation in which a child of 14 lives with her mother and has a 'boyfriend' of 30+ with whom she has full carnal knowledge. She is diagnosed with gonorrhoea of the mouth by a doctor who objects to this situation and who believes her to be a victim of child abuse. As the storyline develops this doctor is depicted as being 'wrong' in this and an argument is advanced that as the child goes to school, has a roof over her head, and eats well it is 'ok'. His complaint is that therefore: - 1. child abuse is condoned and excuses found for it; 2. any child watching this might mistakenly think that in these circumstances abuse is acceptable/normal; 3. any abuser/potential abuser could take comfort from the 'message' of this episode; 4. the only adult who opposes the abuse is portrayed 'badly'; and 5. this episode should not have been broadcast at all – but to broadcast it so early in the day is negligent in the extreme.

### Station's Response:

TV3 submit that: -

1. this is a drama that is set in a hospital and deals with a wide variety of issues connected to medical matters;
2. the programme material is neither graphic nor gratuitous. The issues that are raised are always dealt with in an appropriate manner;
3. in regard to the matter of the subject of the complainant TV3 would make the following very specific points: -

- a. a 14 year old girl presents with a throat infection which transpires to be related to sexual activity. She is not seen by her usual doctor but by another doctor. It transpires that the girl is having a relationship with a thirty year old male who lives with the teenager and her mother.
  - b. the interaction in relation to the morality or otherwise of the issue is dealt with by dialogue from two doctors. Her own doctor is **not** happy with the situation at all and this is stated in the programme. However, he acknowledges that despite the fact she is living in a deprived area, she is attending school, she is not in trouble, and generally the living arrangements, whilst not ideal, are ones that he is prepared to accept. The other doctor takes a more absolutist line and in perhaps the most interesting and pivotal piece of dialogue, one doctor states that ‘that girl needs her family’ whereas the other doctor says, ‘that girl needs protection’;
  - c. child protection services do investigate the complaint within the programme and whilst this is being discussed, and also at the end of the programme, it becomes obvious that the issue really under discussion is the sexualisation of children and how society, including doctors, react to this issue;
  - d. the doctor who is not happy with the situation, as a sub-plot, is also having difficulties generally in regard to being a doctor and this also forms part of the storyline;
  - e. it should be noted that this storyline is on of three main stories within the programme.
4. TV3 notes that taste and decency issues are being considered by the BCI at present. TV3 notes that the BCI has made it clear that it does not see itself as a censor but rather wants to ensure that their guidelines are in place with regard to the nature of content that is broadcast;
  5. In this case, this material was shown in an afternoon slot when children are at school. This programme is aimed squarely at ‘stay-at-home’ adults. This type of scheduling is common throughout Western Europe. We would state that less than 5% of TV3’s audience during this programme were under 18 and that this is typical for this time of day;
  6. TV3 used an appropriate warning at the start of the programme;
  7. TV3 notes that the main bulk of the complainant’s issue is in relation to the episode sending the ‘wrong message’. In regard to this point TV3 would state that the programme does not send any message; it deals with the matter in a thoughtful manner;
  8. In this instance, TV3 provided a programme that deals with important issues in a sensitive and subdued manner and further provided a warning, should individuals have been offended by it.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. Chicago Hope is an American hospital drama series and this broadcast had storylines which included sexual harassment, a rape allegation, a sexually dysfunctional relationship and the relationship between a man aged 31 and a girl aged 14. It is the latter mentioned storyline that forms the mainstay of this complaint. It interweaves with the other storylines through the programme.

On viewing the programme, the Commission was of the opinion that the storylines were all related to sexual issues. However, they were dealt with in a responsible manner. The Commission could find no evidence of child abuse being ‘condoned’ as submitted by the complainant. In the broadcast, two doctors argue over the medical treatment of a 14 year old girl and the appropriateness or otherwise of her relationship with an older man. She lives with her 31 year old boyfriend and her mother. The two doctors disagree on a number of issues, but they also agree on a number of issues. They discuss the relationship in a non-sensationalist and non-gratuitous manner. At no stage is abuse condoned. The Commission could find no evidence of such a ‘message’ or that the doctor who was against the relationship was portrayed negatively.

However, the Commission would acknowledge the inappropriate scheduling of this particular episode as raised by the complainant. Given the adult sexual nature of the content, the Commission was of the opinion that an afternoon broadcast schedule was unsuitable. A broadcaster must exercise due care when broadcasting material at a time when children could be in the audience. The Commission notes that the broadcast was preceded by a warning. However, this does not circumvent the broadcaster’s responsibility. The content

of this broadcast was sexually explicit, entirely adult in nature. It was not suitable for viewing by children. Therefore, the Commission was of the view that this particular episode should have been broadcast after the watershed.

This broadcast was inappropriate for broadcasting in the afternoon schedule and therefore, the complaint is upheld with regard to Section 24(2)(b)(taste & decency).

**5.9** *Complaint made by: Ms. Deborah Reid*  
*Ref. No. 137105*

**Station:** Anna Livia 103.2FM  
**Programme:** Backbeat  
**Date:** 9 July 2005  
18 July 2005

The Commission does not consider it appropriate to publish the particulars of this complaint.

**5.10** *Complaint made by: Ms. Siobhán Toomey*  
*Ref. No. 172105*

**Station:** Tipp Mid West Community Radio  
**Programme:** Breakfast Show with Breda Ryan  
**Date:** 3 October 2005

### Complaint Summary:

Ms. Toomey's complaint, under Sections 24(2)(a)(impartiality), (b)(law & order) and (c)(privacy) of the Broadcasting Act, 2001 refers to a discussion on dog fouling during a broadcast of the 'Breakfast Show'. The presenter stated that a caller made a complaint about a lady who walks her white dog in the Fr. Matthew Street area, who should learn to clean up after her dog. She went onto say that they had received a lot of calls about the topic. One call in particular related how a person was fed up with a dog owner that never cleaned up after her dog. So one day she decided to pick up the pooh in a plastic bag and followed the lady to see where she lived. She waited until they went inside and then knocked on the door. She handed the lady the plastic bag telling her that it belonged to her. The presenter said more people should do this. The complainant believes no-one should agree with or encourage such behaviour. The person being followed does not know the intentions of the person following them and would be naturally afraid for their personal safety, something that the presenter should have been aware of.

The complainant states that the problem lies in the consequences of the said topic of discussion, which originated from the first phone call. While she did not hear the programme, while out walking on Monday 3 October she was met by five different people who brought up the issue of dog fouling. Two of the people asked her had she heard the programme. When she told them she hadn't, they went onto tell her in great detail about what was said on the issue. One of them said that 'is referring to you' as you have a little white dog. She put her hands into her pocket and took out several clear sandwich bags for them to see. It was bad enough to have been met twice by people assuming that the lady walking the white dog was her, but her encounters were not over as she was yet to be met by three more people, who proceeded to verbally abuse her over not picking up the dog pooh and making the town dirty.

In all the years the complainant has been walking a dog in this area, over 16 years, she has never been approached by any person, including the woman who phoned in her complaint. She phoned the station and informed them of the abuse she got resulting from the presenter mentioning the street on which this lady walked her dog. They offered her the opportunity to go on-air. However, the complainant asks why she should have to go on-air to defend herself against an unfounded complaint, while the person that made the complaint remains anonymous. The station did air an apology the next day, but the complainant believes it was vague and half-hearted and did not resolve the issue to her satisfaction.

The complainant also wishes to point out that the station never responded to, or mentioned, the issue about the presenter endorsing the actions of the lady who followed a dog walker to her house to deliver the dog pooh.

### Station's Response:

Tipperary Mid West Radio station state that a caller phoned into the show giving details of a lady, well dressed walking her white dog in Fr. Matthew Street and she complained bitterly that the dog was fouling the footpaths and the owner was doing nothing about it. There were no names mentioned and when the presenter aired the topic the station was flooded with phone calls complaining about dog owners allowing dogs to foul paths and then ignoring to clean it up. The caller mentioned no names, just a description of what she observed.

The station did not target the complainant in any way whatsoever. The station offered her an opportunity to come on air and talk about the subject but she declined. The next day during the 'Breakfast Show' Breda Ryan explained in detail that more than one person walked a white dog in Fr. Matthew Street and apologised to the caller who had been in contact with the station the previous day who had been approached by people. The complainant states that the apology was very vague. It was the best the station could do given the information it had to go on. One further point the station makes is that the complainant did not hear the programme and is relying on hearsay.

### Decision of the Commission:

The Commission has considered the broadcasts, the submissions made by the complainant and the broadcaster. The complaint made by Ms. Toomey has been upheld with reference to Section 24(2)(c)(privacy) of the Broadcasting Act 2001. The Commission is of the opinion that Tipp MidWest Community Radio infringed the privacy regulations. The presenter of the programme should have exercised more care when describing the lady in question. The description contained too much detail and made the complainant readily identifiable. The area where she walked her dog was also pinpointed. The Commission notes that no names were mentioned by the presenter during the programme. However, given the local nature of the station the details as presented during the programme made the complainant readily identifiable in the locality and this unreasonably encroached upon her privacy. The complaint was upheld.

**5.11** *Complaint made by: Ms. Tara Buckley*  
Ref. No. 134/05

**Station:** RTÉ Radio 1  
**Advertisement:** Interim National Consumer Agency  
**Date:** July 2005

**5.12** *Complaint made by: Ms. Tara Buckley*  
Ref. No. 144/05

**Station:** Today FM  
**Advertisement:** Interim National Consumer Agency  
**Date:** July 2005

### Complaint Summary:

Ms. Buckley's complaint under Section 24(2)(e)(advertising – sections 3 & 17) of the Broadcasting Act 2001 refers to an advertisement on

behalf of the Interim National Consumer Agency and concerns a ministerial process on the future of the Groceries Order. There are 3 objections:

1. The advertisement presents a one-sided perspective on a hotly contested issue and does not present any counter view. It is imbalanced and lacks impartiality. It calls on consumers to act, but only on the basis of a selective and misleading presentation of information.
2. The content of the advertisement is misleading and factually incorrect. On the basis of this misleading and incorrect information, the advert invites consumers to make submissions to a Government Department on a matter of political concern.
3. The advertisement is concerned with the formation and making of government policy and legislation. It is a partisan announcement funded by a State Agency on a deliberative consultative process that may result in a change of law. Accordingly, it is an advertisement that is expressly prohibited by the Broadcasting Acts.

### Station's Response:

#### RTÉ state:

1. There is no requirement for an advertisement to be impartial. These requirements apply to news and currents only.
2. It is RTÉ's view the wording of the advertisement is not misleading or factually incorrect. A process of public consultation on the Groceries Order is being carried out by the Department of Enterprise, Trade and Employment. The advertisement is factually correct in stating this. The advertisement goes on to advise members of the audience to participate in the consultation process.
3. From the wording of the advertisement by the National Consumers Agency, no view is expressed either in favour or against the retention or removal of the Groceries Order. The wording simply calls upon citizens to participate in a consultative process.

**Today FM** state that at the outset, the station accepts that an error was made in broadcasting this advertisement. However, the circumstances surrounding the acceptance of the advert are as follows:

The commercial came from a reputable advertising agency and concerned a government department and an agency recently set up by the government. The fact that any of the previous organisations would be involved in a commercial is generally an assurance of integrity; the fact that all three were named appeared to copper fasten this. The commercial itself was densely scripted and it was not immediately apparent who it was from, or what was the overall agenda. This only became clear on hearing the commercial a few times. When made aware of the problem, the Sales department at Today FM immediately withdrew the advertisement.

Today FM states that steps have now been taken to make staff aware of nuance and subtlety in commercials to ensure no such mistakes occur again. Today FM prides itself in upholding the spirit of the advertisers' code and it is never their intention to knowingly breach them.

### Commission's Decision:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint made by Ms. Tara Buckley has been upheld with reference to Section 24(2)(e)(advertising codes) of the Broadcasting Act 2001. The Commission was of the opinion that this advertisement infringed the advertising regulations and in particular;

#### *regarding RTÉ*

Sections 3.1(i)(a) and 17 which require that RTÉ complies with 'Section 20 of the Broadcasting Authority Act, 1960 (as amended)'. The particular section of the 1960 Act, Section 20(4), prohibits RTÉ from accepting 'any advertisement which is directed towards any religious or political end or has any relation to an industrial dispute.'

#### *regarding Today FM*

Sections 3.1(ii)(a) and 17 which require that Today FM complies with 'Section 10 of the Radio and Television Act, 1988'. The particular section of the 1988 Act, Section 10(3), states that 'No advertisement shall be broadcast which is directed towards any religious or political end or which has any relation to an industrial dispute.'

The text of the advertisement is as follows:

*Do you have views on the Groceries Order which affects the price of your shopping basket? The Department of Enterprise, Trade and Employment wants to hear what consumers think about the Order before 31 July. The National Consumer Agency believes consumers should make their voices heard.*

*To learn more go to [Irishconsumer.ie](http://Irishconsumer.ie) or call [number].*

*The National Consumer Agency – Making Consumers Count*

The Commission was of the view that a consultation process concerning an Irish statute is a political one. In reaching this determination the Commission had regard to the High Court decision in the case of Colgan Vs IRTC; '...an advertisement has a political end within the meaning of Section (10)(3) if it is directed towards furthering the interests of a particular political party or towards procuring changes in the law of this country or, I would add, countering suggested changes in those laws.....'.

Therefore, the consultation on the Groceries Order undertaken by the Department of Enterprise, Trade and Employment belongs in the political arena. The process related to the formulation and making of government policy in relation to an Irish law as the complainant submits.

Through this advertisement, the National Consumer Agency was promoting its position on the Grocery Order. The Agency was encouraging listeners to respond to a consultation process undertaken by the Department of Enterprise, Trade and Employment and thereby, endeavouring to influence a political decision making process. Also, the listener was informed that to 'learn more go to [irishconsumer.ie](http://irishconsumer.ie) or call [number]'. This facilitated access to information on the National Consumer Agency's stance on the issue. Therefore, the Commission was of the opinion that this advertisement was directed towards a political end. Such advertisements are prohibited. The complaint was upheld.

### 5.13 Complaint made by: Mr. Peter Weigl Ref. No. 192/05

**Station:** RTÉ  
**Sponsorship:** Eircom broadband; weather reports  
**Date:** October 2005

### Complaint Summary:

Mr. Weigl's complaint under Section 24(2)(e)(sponsorship codes) refers to the sponsorship slots before and after the weather reports on RTÉ for Eircom Broadband. The sponsorship is misleading viewers and is also subliminal advertising. More specifically: -



1. The Eircom sponsorship credits do not make the viewer aware that only 60% of households can currently avail of the promoted broadband service; the 'sponsorship' credits are therefore neither honest nor truthful.
2. the sponsorship uses techniques similar to subliminal advertising to sell a service to the audience, about which they are not fully aware. This is in breach of the codes. The Eircom broadband sponsorship credits contain (at the fade out end of the second part of the sting) a brief (2 seconds) image showing 'eircom.ie' in the centre of an isobar background.
3. The stings also breach Section 21.1(iii) which states that 'sponsorship credits must not encourage the purchase or rental of the products or services of the sponsor or third party.'. In other words, the sponsorship credits clandestinely lead the members of the target group (dial-up internet users) to use a service that is costly and highly profitable for the advertiser.

Between Eileen Dunne and the weather forecast the well-established stick-figure acts in its animated meteorological isobar habit, doing some sport to the voice over: 'Want a faster way to check up on the latest sport results? Now you can, with Eircom Broadband you can.' The Eircom logo is at the bottom right with the words 'eircom broadband'. The sting is repeated after the weather forecast. This time it says: 'Whatever sports you are into, with Eircom Broadband you can get faster updates'.

The complainant would ask RTÉ to retract reference to the Eircom website 'eircom.ie' from the sponsorship credits and include information about the availability of Eircom's broadband in the form of 'Eircom's broadband is currently available to xx percent of telephone landline holders'.

### Station's Response:

RTÉ in their response state that in regard to the complainant's claims that the sponsorship sting of the weather fails to fulfil the requirement that advertising should be 'legal, honest, decent and truthful', they cannot find anything in the sponsorship sting which does not conform to the requirements of the code. RTÉ believes that Mr. Weigl's comments about the broadband service provided by Eircom are comments about the service, rather than about the sponsorship.

RTÉ further states that there are no subliminal images in the sponsorship sting. The observations Mr. Weigl makes about the level of broadband penetration in the Irish market have nothing to do with the sponsorship stings. They are observations which should be directed towards the Communication's Regulator, not the BCC.

The only function the BCC has in regard to Mr. Weigl's complaint is to determine if the sponsorship stings conform to the relevant advertising and sponsorship codes. RTÉ believes the stings fully conform and that the complaint should not be upheld.

### Advertiser's Response:

McConnells Advertising responded as follows: -

- 1) *the sponsorship is misleading viewers about the availability of Eircom's broadband services.*

In accordance with the same code referred to by Mr. Weigl, McConnells Advertising states that they have been careful in the creation and production of these sponsorship stings to make sure they do 'not encourage the purchase or rental of the products or services of the sponsor or a third party, in particular by making special promotional references to those products or services other than in advertisements in commercial breaks'.

They see the function of these stings as creating awareness for the Eircom broadband service and its function. They feel this lives up to the same codes definition of sponsorship as:

'...any contribution made directly or indirectly by a public or private undertaking not engaged in television and/or radio broadcasting activities or in the production of audio-visual works, to the financing of television or radio programmes with a view to promoting its name, its trade mark, its image, its activities or its products.'

Eircom is a responsible advertiser who regularly use paid for advertising in commercial breaks to encourage the purchase and rental of its products and do not consider its sponsorship commitments to fulfil the same role.

- 2) The sponsorship uses techniques similar to subliminal advertising to sell a service, about which the members of the audience are not fully aware.

The section on subliminal advertising states that:

'No television advertisement may include any technical device which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware or fully aware, of what has been done.'

The use of the URL 'eircom.ie' in the sponsorship stings is to act as a point of contact for consumers who wish to find out more information about the service should they so wish. The role of the sponsorship, as already mentioned, is to promote awareness of the service. Should this awareness create a level of interest it is only prudent that we should give consumers a reference point at which they can further explore that interest.

Having viewed the sponsorship stings again in light of this complaint the advertiser does not feel that the way in which the URL has been communicated is in contravention of the above code. Subliminal advertising originated as an attempt to 'trick' consumers and communicate messages to them without their conscious knowledge, this commonly took the form of images appearing in communication for a split second (possibly even one frame – with an average of 24 frames per second). It was intended to create a desire for something at a subconscious level. As the URL that features in the stings is on screen in its completed form for approximately 3 seconds (33% of the entire sting) and appears to be unobstructed as the most prominent visual device on screen during that time the advertiser believes that it is totally unfair to categorise it as subliminal.

Once again the advertiser would like to state that Eircom is a responsible advertiser and the use of such underhand practices is both frowned upon in general and forbidden for all their brands.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The broadcast item in question is categorised as a sponsorship item. Therefore, in adjudicating on this complaint the Commission only considered issues that relate to sponsorship in the Ministerial 'Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services'. The issues of misleading content or subliminal advertising as raised by the complainant are not relevant in the context of this broadcast item.

In arriving at its decision the Commission had reference to Section 21.1(iii) which states:

'they must not encourage the purchase or rental of the products or services of the sponsor or a third party, in particular by making special promotional references to those products or services other than in advertisements in commercial breaks'.

In other words, sponsorship credits should be distinct from advertisements in that they should not promote the attributes of a product or service.

The Commission noted the 'stings' used. These stings advance a reason for subscribing to Eircom Broadband:

Opening sting: 'Want a faster way to check up on the latest sport results? Now you can, with Eircom Broadband.'

Closing sting: 'Whatever sports you are into, with Eircom Broadband you can get instant updates'.

These stings clearly promote an attribute of a product, thereby encouraging the purchase of that product. This contravenes the codes and in particular Section 21.1(iii). On this basis the complaint was upheld. The Commission would ask that the broadcaster amend the 'stings' used in this broadcast item to adhere to the sponsorship regulations.

#### 5.14 *Complaint made by: Mr. Ray Di Mascio* *Ref. No. 70/06*

**Station:** TV3  
**Advertisement:** Advert - Irish Psychics Live  
**Date:** 20 March 2006

### Complaint Summary:

Mr. Di Mascio's complaint, under Appendix 2 (prohibited advertisements) of the 1995 Ministerial Advertising Codes, refers to an advertisement for Irish Psychics Live. It is his belief that advertisements for such services are currently banned under appendix 2 under the description of 'fortune tellers and the like'.

### Station's Response:

TV3 submits that it endorses the response of the advertiser.

### Advertiser's Response:

The advertiser, Realm Communications, states that it is their view that the prohibition on the type of advertisement referred to in Appendix 2 of the Ministerial Codes, 'fortune tellers and the like', does not apply to their industry. The definition of fortune teller in the Oxford English dictionary is as follows: *-fortune-teller, noun – a person who claims to have magic powers and who tells people what will happen in the future.'*

Their company does not advertise that its employees have magic powers. The prohibition is in their view intended to prohibit individuals holding themselves out as having special powers, thus misleading the public. The reality of the advertisements placed by Realm Communications is that they advertise general entertainment services. They understand that the Broadcasting Commission of Ireland is reviewing the general advertising code at present with a view to considering whether prohibitions presently contained in the Ministerial Codes should be removed and/or altered. It is Realm Communications view that the present prohibitions should be removed, and normal advertising standards applied.

The advertiser further states that not only are these advertisements in compliance with the general standards applicable to advertising but also the standards and practice of the Code of Practice introduced by Regtel.

### Decision of the Commission:

The Commission considered the broadcast, the submissions made by the complainant, the broadcaster and the advertiser. The Commission noted the references in the advertiser's response to Regtel and to a review process of the broadcasting advertising codes. The BCC can only assess a complaint concerning an advertisement based on the 'Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services'. Therefore, the claim that the advertisement is in line with Regtel Code is not relevant to the Commission's assessment of this complaint. Also, the fact that the broadcasting advertising code is currently being reviewed cannot influence the complaint process. A listener or viewer is entitled to make a complaint based on the code and regulations currently in place, and the Commission is obliged to process it. Therefore, the Commission must accept and process complaints under Appendix 2 of the 'Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services.' This section states:

### 'APPENDIX 2

#### Prohibited Advertisements

*Advertisements for products or services coming within the recognised character of, or specifically concerned with, the following will be prohibited:*

*(b) Fortune tellers and the like;'*

The voice-over in the advertisement states: -

**'Love, happiness, discover your destiny.  
Call Irish Psychics Live on [number]'**

The Commission is of the opinion that this tells the viewer that by calling Irish Psychics Live one can find out what the future holds i.e. 'discover your destiny'. Under Appendix 2(b), such services are prohibited.

The advertiser asserts that this section does not apply to their industry, that they are advertising a general entertainment service. There is no such differentiation made in the 1995 Codes, which defines an advertisement as '(i) any form of announcement, which is inserted in a programme service in consideration of payment or payments or other remuneration made to the broadcaster'. Therefore, whether the service being advertised is for 'entertainment' purposes, or otherwise, is not relevant to the assessment of this complaint.

What is under consideration is the actual service that is being promoted by the advertisement. It is clear that this advertisement promotes, and encourages viewers to call, a service that comes 'within the recognised character of, or (is) specifically concerned with, ...fortune tellers and the like'. This is in contravention of Appendix 2 of the 'Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services.' This complaint has been upheld with regard to Section 24(2)(e)(advertising codes) of the Broadcasting Act 2001.

**5.15** *Complaint made by: Mr. Ray Di Mascio  
Ref. No. 71/06*

**Station:** TV3  
**Advertisement:** Advert - 7th Sense  
**Date:** 31 March 2006

### Complaint Summary:

Mr. Di Mascio's complaint, under Appendix 2 (prohibited advertisements) of the 1995 Ministerial Advertising Codes, refers to an advertisement for 7th Sense. It is his belief that advertisements for such services are currently banned under appendix 2 under the description of 'fortune tellers and the like'.

### Station's Response:

TV3 submits that it endorses the response of the advertiser.

### Advertiser's Response:

The advertiser, 7th Sense Tarot, submits that: -

1. 7th Sense is regulated by the Regtel and its Tarot service was officially approved by them in July 2002 and is bound by the Regtel Code of Practice. Under this code, all aspects of the service are heavily regulated including advertising. In accordance with the Regtel code services are either sanctioned as general entertainment or information services. In this respect the service is by definition a 'General Entertainment Premium Rate Telephone Service'. It is not a fortune telling service. 7th Sense does not meet clients or correspond with them in any way. The service operates solely on the phone and has no other facets to it. 7th Sense is not a fortune telling service.
2. Tarot is fundamentally different to fortune telling which is founded on the psychic ability of the fortune teller to see the future. Tarot reading does not require any psychic ability. Tarot reading is based upon a prescribed method of reading a 78-card deck used to interpret the clients' unconscious state of mind. It has no connection with future telling and is concerned only with assisting clients with their present state of mind or circumstances. Tarot card reading is a skilled discipline. Tarot readers do not need psychic abilities of any kind. People without psychic ability can be trained to read tarot cards since it is a prescribed set of rules.
3. Premium Rate Entertainment Services offering tarot card reading have been advertising on TV3 for the past 8 years. It does not make any sense to effectively ban an entire industry 8 years after the fact of its creation without any previous indication prior to the investment.

4. The Ministerial Codes on which this complaint appears to be based do not define fortune telling services whilst referring to them. This is not a strong enough basis to uphold such a damaging complaint against a long established industry. This code is to be replaced this year and the BCI are currently seeking responses to their public consultation on the matter. If the BCI has not seen fit to raise the issue in any format during the past 8 years of advertising on prime time national television, then they can see no reason not to wait until the completion of the BCI's current consultation process, before the BCC adjudicates on this issue. It is possible that any decision taken now could be invalidated by the new code. This constitutes reasonable grounds for waiting.

5. The advertiser further submits that one of the main thrusts of the EU Directive for Television without Frontiers is to promote cultural diversity, which obviously flies in the face of Mr. Di Mascio's culturally intolerant complaint.

Many people believe strongly in Tarot. Mr. Di Mascio's complaint is offensive to all such people both customers and workers alike. It also amounts to censorship and discrimination.

### Decision of the Commission:

The Commission considered the broadcast, the submissions made by the complainant, the broadcaster and the advertiser. The Commission noted the references to Regtel, premium rate entertainment services and to a review process of the broadcasting advertising codes. The BCC can only assess a complaint concerning an advertisement based on the 'Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services'. Therefore, the references to a Regtel Code and premium rate entertainment services are not relevant to the Commission's assessment of this complaint. Also, the fact that the broadcasting advertising code is currently being reviewed cannot influence the complaint process. A listener or viewer is entitled to make a complaint based on the code and regulations currently in place, and the Commission is obliged to process it. Therefore, the Commission must accept and process complaints under Appendix 2 of the 'Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting services.' This section states:

## 'APPENDIX 2

### Prohibited Advertisements

*Advertisements for products or services coming within the recognised character of, or specifically concerned with, the following will be prohibited:*

*(b) Fortune tellers and the like;*

The Commission notes that the advertiser submits that they have been advertising tarot card readings for the past eight years without issue. It also notes that they believe as fortune telling is not defined in the Ministerial Codes, there 'is not a strong enough basis to uphold such a damaging complaint'. However, the Commission is obliged to assess the complaint as submitted by the complainant. Also, the Commission does not agree that the lack of a definition weakens the Commission's assessment process.

The voice-over in the advertisement states: -

**'What does the future hold for you?  
Ask the cards.  
[number]'**

The Commission is of the opinion that this advertisement clearly tells the viewer that by calling 7th Sense Psychic Line you can find out what the future holds for you.

The advertiser asserts that the service is by definition a 'general entertainment premium rate telephone service'. There is no such differentiation made in the 1995 Codes, which defines an advertisement as '(i) any form of announcement, which is inserted in a programme service in consideration of payment or payments or other remuneration made to the broadcaster'. Therefore, whether the service being advertised is for 'entertainment' purposes, or otherwise, is not relevant to the assessment of this complaint.

What is under consideration is the actual service that is being promoted by the advertisement. The Commission notes that the advertiser states that '7th Sense is not a fortune telling service'. However, the advertisement includes the line 'what does the future hold for you? Ask the cards.' It is clear this advertisement promotes, and encourages viewers to call, a service that comes 'within the recognised character of, or (is) specifically concerned with, ...fortune tellers and the like'. This is in contravention of Appendix 2 of the 'Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting

services.' This complaint has been upheld with regard to Section 24(2)(e)(advertising codes) of the Broadcasting Act 2001.

**5.16** Complaint made by: Mr. Paul McDonagh  
Ref. No. 127/06

**Station:** Newstalk  
**Advertisement:** Advert - Senator Windows  
**Date:** 22 May 2006

### Complaint Summary:

Mr. McDonagh's complaint, under Section 24(2)(e)(advertising) of the Broadcasting Act 2001, refers to the advertisement for Senator Windows. He states that Senator Windows claim to have the only window proven to comply with new Regulations. Mr. McDonagh states his company have been supplying current regulation windows, doors and conservatories as standard to their customers for over three years as have many other suppliers. Senator Windows are only supplying these windows as Regulations have forced it upon them and do not supply this window as standard. The advertisement would make the customer think that Senator Windows is the only Company providing such windows, doors and conservatories.

### Station's Response:

Newstalk states that it is their policy to check all adverts that have not been produced in-house, such as the Senator Windows advertisement, for quality and compliance before putting them to air.

Newstalk have been assured by Senator Windows advertising agency (KBM) that the advertisement in question is not making false claims and was not produced with the intention to be misleading. The advertisement refers to "new energy regulations" which Newstalk accepts were not outlined in full title in the advertisement, and if they had been, may have prevented this complaint.

The advertising agency confirmed to Newstalk that the "new regulations", referenced in the advertisement, are in fact the British Fenestration Rating Council (BFRC) regulation relating to energy ratings in homes. Senator Windows, to date, is the only company in the Republic of Ireland to have obtained such a rating. It is Newstalk's belief that the complaint would have been valid if the Senator Window's advertisement was referring to compliance with part L of the Irish building regulations.

Newstalk agreed to run the advertisement on the basis that it is factually true and was not intended to be misleading.

### Advertiser's Response:

KBM states that Senator Windows are a long established Irish-owned company now in business 21 years and it was never their intention to mislead anyone. When they stated in the advertisement that they were the only window company in Ireland to meet the new energy regulations, they were not referring to Part L compliance of the Irish building regulations because part L compliance started in 2003 and, therefore, could not possibly be the "new energy regulations". Senator Windows agree that practically all manufacturers' products comply with part L of the Irish building regulations.

Senator Windows are referring to the new building regulations which state that all houses and products will have to carry an energy rating (similar to the rating seen on fridges etc). This will come into effect in 2007 when all new houses require an energy-rating certificate and in 2009 when all second-hand houses require a certificate. The BFRC is the only company that can confer a rating on windows in the British Isles and their windows successfully achieved a "C" rating. They are the first company in Ireland (and the only one in the Republic at present) to have achieved this rating.

They believe Senator Windows have done nothing misleading and only strive to continue to supply their customers with the most efficient and up-to-date window on the market today.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant, the broadcaster and the advertiser. In assessing this complaint the Commission had regard to the claims made in the text of the advertisement which states: -

*'New and exclusive from Senator Windows, the Excalibur window is the only window in Ireland proven to meet the new energy regulations, with its sleek looks this window is internally glazed for unbeatable security. A wide range of colours is available. Call to one of our three Dublin showrooms in Blackrock, Churchtown or Santry today and see for yourself. Call save [number]'*

On the hearing the advertisement, a listener could discern that Senator Windows is the only supplier to comply with the 'new energy regulations'. However, the Commission noted that the 'new energy regulations' refer to ratings that will come into effect in Ireland in 2007 for new homes and 2009 for second-hand homes. This fact is not made clear in the advertisement. The advertisement could lead a listener to believe there are regulations in place, while in reality the regulations have yet to be enacted in Ireland. Therefore the claim in this advertisement is misleading. The Commission has upheld this complaint with reference to Section 24(2)(e)(advertising codes) of the Broadcasting Act 2001.

### Rejected Complaints

**5.17** *Complaint made by: Dr. Eamon de Valera  
Ref. No. 149/05*

**Station:** RTÉ TV1  
**Programme:** Hidden History series – A Family Fortune: de Valera's Irish Press  
**Date:** 26 July 2005

### Complaint Summary:

Dr. de Valera's complaint, submitted under Section 24(2)(a)(impartiality) and (f)(slander), refers to what he considers the programme as being a deliberate exercise in attacking his grandfather, his father and himself and as such has no place in Public Service Broadcasting. He states the rebroadcast of this programme displays gross negligence on the part of RTÉ in failing to ensure basic fairness and truth. The broadcast and the manner in which RTÉ set about responding to his complaint represents a gross failure on the part of successive RTÉ Authorities to exercise control and ensure that RTÉ fulfils its statutory remit.

The sources of the documents from Irish Press Corporation in the programme are a source of concern. Some are clearly from the Corporation's records and should not have been used without the permission of the Corporation. The manner in which the programme makers gained access to these documents would be important in establishing how they went about producing the programme.

The particulars of the complaint are:

1. The name of the television programme betrays its purpose and bias. 'A Family Fortune – de Valera's Irish Press' implies that a family fortune was made out of the Irish Press by Eamon de Valera and his family. The overall impression which the programme set out to give was that the founder Eamon de Valera set up the Irish Press for his own benefit in an underhand manner with disregard to the proper interests of the original subscribers in Ireland and particularly in America.
2. The programme went on to give the impression that the Class A stock were without value, when, in fact, 99.7% of all dividends or other financial benefit would be due to Class A stock. In a letter dated 1 May 2002 to Mr. Francis Corcoran who appeared in the programme, the complainant stated; 'The value of Class A stock is to a very large extent dependent on the income received from Irish Press Plc or the expectation of such income...Some years ago when there was no imminent prospect of dividends I [the complainant] acquired some Class A stock for \$12 per share'. As set out in the letter the Irish company had received a substantial settlement from Warburg Pincus but had not yet resumed dividends. It was clear that there was a prospect of future dividends from the American corporation. Mr. Corcoran's statement that Dr. de Valera [the complainant] gave him the impression that the shares were without value is disingenuous to say the least.
3. The allegation that American subscribers were tricked into providing funds is without foundation. If true, this would mean that not only was the complainant's grandfather a crook but so were those who assisted him.
  - a. All funds had to be solicited by donations because legal requirements in the various States of the Union. The cost and time that would be required to comply with the individual requirements of each state made it impracticable to sell stock directly.
  - b. Initially his grandfather sought donations of \$500 from his American supporters with considerable success although the total fell well short of the target of \$500,000, some \$120,000 was raised by early 1929. There is no basis for believing that any who donated \$500 were in anyway unhappy with the way these funds were applied.
- c. In 1930, the campaign to seek the assignment of Republican Bonds was launched. A letter was sent to each Bond Holder including a letter, dated February 1930, from Frank P. Walsh, Chairman of the American Committee, which states: *'Whilst the funds are being solicited by way of donations, Mr. de Valera will, of course, not derive personally any monetary profit from them. He intends to make the necessary and proper arrangements to ensure that if any profits accrue from the enterprise, or, if there should be any distribution of assets, such profits and the amount of any such distribution will be made available for the donors, according to their respective donations'*.
- d. 5,000 shares in the Irish company were for a period held apart to facilitate American donors who wished to hold shares in the Irish company. To the best of the complainant's knowledge, only a small number of shareholders sought shares in Irish Press Limited. To argue that this desire to facilitate the wishes of some shareholders arises from any form of deceit is untenable. The programme itself stated that Frank Aiken and Ernie O'Malley were warned not to suggest that donors would get shares in the Irish company.
4. The allegation that more capital could have been raised in Ireland is untrue. The original authorised capital was £200,000 but this was increased to £250,000. The company continued to raise funds in Ireland and in 1933 mounted a renewed campaign for subscriptions. In total, some £216,000 was raised of which £92,00 came from America.
5. The allegation that those with savvy and friends of the complainant's grandfather obtained shares in Irish Press Limited is false and without foundation. As noted above, many of Eamon de Valera's American friends donated \$500 by early 1929 and these all received the appropriate stock in Irish Press Corporation. Frank P. Walsh and his wife subscribed a total of \$3,500, the largest single contribution from anyone. The six original subscribers of the American corporation, all prominent people, the complainant believes, subscribed between them over \$4000. All received Class 'A' shares.

6. Mr. Power's account of his family shareholding is simply incredible. The facts are that he received the bulk of his shares from the V Rev Thomas Power C.C.. The balance of his shares came from Patrick Power, a farmer. The complainant fears that Mr. Power was very mistaken. The programme makers made no attempt to check their facts.
7. In a letter dated 19 August 1930 addressed to Mosignor Rogers 'On Board 'President Harding', Cobh, on his way to a meeting with the directors of the American corporation he explained: '*The purpose of the proposition (to the American corporation) made is, as you know, to secure as far as possible that the policy of the paper as explained by me to the public, and on the basis of which I solicited subscriptions, will not be departed from, and that the risks in this regard involved in a joint stock enterprise will be eliminated without interfering with the financial interests of the subscribers*'. The arrangements put in place regarding Controlling Director and the Trust was to ensure that the complainant's grandfather had control. There was no secret that he did have control. It was necessary for the reason set out above. The enterprise would have been very vulnerable to hostile or predatory interests if it had not been protected by such mechanisms. Mosignor Rogers had also contributed \$500.
8. The attack on Vivion de Valera's experience is just one example of bias in the programme. In 1959, when he was elected Controlling Director at a General Meeting of the company, he had been Managing Director since 1951 during which time the Evening Press was launched. Before that he had been a very active non-executive director from 1932. He was an experienced army officer and a member of Dáil Éireann with a successful career at the Bar. He had a brilliant academic record at UCD and could have pursued a career as a physicist. Throughout the Emergency he served as an infantry officer and later ran an explosives factory. Prior to retiring from active service he was invited to remain in the army with the rank of (full) colonel at the age of 34 years, literally decades younger than any other officer of that rank. He then was elected to the Dáil and resumed his legal career. Seán Lemass had been the first Managing Director who had responsibilities for Editor-in-Chief. The association of the Irish Press with Fianna Fáil required a degree of editorial fineness. The newspaper had been founded as a paper that was bound to no party, as his grandfather had made clear to the Fianna Fáil Ard Fheis in 1931. Thereafter, the complainant's father managed the Irish Press very successfully for 25 years, launching the Evening Press in 1954 and sustaining the business through a crisis in the mid 1950s. The subsequent difficulties that the business faced from the late 1970s are an entirely unrelated matter.
9. The implied criticism that Eamon de Valera did not hand control of the Irish Press over to Fianna Fáil in 1959 ignores the policy of the newspaper as set out in its first editorial 'Our Purpose' which clearly states that the paper was not to belong to any one party.
10. The failure to pay dividends until 1973 arose from economic necessity and not some perverse policy to deprive shareholders. The sad fact is that the Irish Press newspaper was never a true commercial success unlike its sister papers, the Sunday Press and Evening Press. It never attracted its due share of advertisement revenue and it was unable to sustain the level of sales achieved in the late 1940s. The accumulated deficit on the Profit & Loss Account was not eliminated until the end of 1948 when there was a balance of £7,000. The Irish Press never out sold the Irish Independent except possibly for a short period of time when audited circulation figures were not produced. The recession of the mid 1950s was so severe that the Irish Press could not afford to send a reporter to the Olympic Games in Melbourne in 1956. The company recorded a loss of £69,000 in 1954 due, no doubt, in a large measure to the launch of the Evening Press and further loss of £17,000 in 1955 giving rise to a new deficit on the Profit & Loss Account of £33,000. In 1971, in the aftermath of the Bank strike, the company had to suspend its building programme because the bank refused the necessary facility. The complainant enclosed a copy of a confidential memo dated 6 October 1967 prepared by his father setting out why it was not possible to say when the company would be in a position to pay dividends. In light of the foregoing the statements to the effect that the company was the leading newspaper group and was highly successful are untrue. They were made in the programme to give justification to the false allegations that Eamon de Valera, Vivion de Valera and Dr. de Valera [the complainant] had deliberately set out to gain an unfair advantage at the expense of shareholders in Ireland and America. The early expectations of sufficient



profits were based on assumptions and projections which were not met. Initially sales and advertising revenue disappointed. Later high costs including the high cost of newsprint which increased tenfold over the first twenty years placed a heavy burden on the company. The statements regarding the company's trading are contrived to lend weight to the central message of the programme and as such are evidence of extreme bias. There was no attempt to provide any objective assessment based on the facts.

11. Neither the shares in the Irish company or the American company had any significant market value when there was no prospect of dividends in the near to medium future. This did not mean that the shares were without intrinsic value or that the shareholders' interests were not being looked after. For most, the fact that the newspapers were being published and seen to be successful was sufficient.
12. The value placed on the Class 'B' shares by the sale by Terry de Valera arose from the particular circumstances of the time when it was decided that it was in the best interest of the enterprise as a whole that those shares would be bought.
13. The programme repeats the false allegations made by Dr. Noel Browne first made in the Dáil in 1959. Neither Eamon de Valera nor Vivion de Valera ever acquired shares at a gross undervaluation as alleged by Dr. Browne. The block of 50,000 shares referred to by Dr. Noel Browne does not and never did exist and so his whole allegation regarding shares is false. The fact that Eamon de Valera immediately denied this falsehood was ignored by the programme, again evidence of deliberate bias on the part of the programme.
14. The claim that Dr. Browne's allegations had anything to do with the decision that Eamon de Valera would stand for President would be ludicrous if it were not given the kind of specious support as given in the programme. The decision to announce it may well have taken Dr. Browne's debate into account but clearly such a decision would have been taken over a period of time by Eamon de Valera and the Fianna Fáil party. One thing is certain; they could not have anticipated a false attack concerning non-existent share dealings that Dr. Browne made in his closing speech in the debate. Dr. Browne had been careful to make no such allegations when he opened the debate although he had inspected the Irish Press share register before the debate started. As result, Eamon de Valera had no opportunity to answer Dr. Browne in the debate. Again the programme made no attempt to check the facts.
15. The claims of Dr. Browne regarding Eamon de Valera as Controlling Director are equally spurious. There was no secret about his position: his name was on the Irish Press letterhead. The change to the Articles of Association in 1957 regarding the Controlling Director was advertised in the Irish Press prior to the General Meeting and was no secret.
16. The programme clearly questions the honesty of the directors of Irish Press Corporation and indeed the complainant's own integrity. Mrs. McCoy's comment to the effect that the dividends did not go to those entitled to them was left to stand unchallenged. Instead the programme ends with a quotation from Mr. Coogan referring to a 'greasy till'. Yet the programme makers knew what happened to the dividends. The programme did not reveal the sources of the Irish Press Corporation documents but the complainant has identified one document used which clearly states within it that the majority of the monies from declared dividends would escheat to the states of the United States and he can confirm that this is what happened to all the dividends payable to 'untraced' stockholders resident in the United States. The suppression of the truth is evidence of bias and worse.
17. The anecdote by Mr. Coogan that Eamon de Valera was only interested in discussing how control of the newspaper was exercised gives an unbalanced impression of his contribution to the launching of the newspapers. It is clear that he was meticulously involved in all aspects of the newspaper from technical plant, the layout of the building, financial projections and not just control and raising funds.
18. Mr. Coogan's statement that the Irish Press was run like a family business is untrue and would not stand up to any independent scrutiny. Mr. J.C. Dempsey, Director & General Manager and later Chairman, was one of the most professional newspapermen of his time. He was supported and succeeded by executives of similar professionalism.

19. In its opening sequences, the programme conveys the impression that Irish Press Plc has run in a manner which is not in the interest of its shareholders and without support of its shareholders. The 'dwindling band of shareholders' is not representative of the shareholders as a whole. Some only became shareholders in July 1990 when a number of staff bought one share each. The first shareholder, who claims he only comes to embarrass the directors, bought his shares at the same time. As the last AGM, the dissenting shareholders could only gather 2,481 votes. The directors had 97 proxies from other shareholders for 12,232 votes. So even without the shares in which the complainant has an interest (both in trust and his own right) the directors would have won. These figures were available at the AGM. This is a clear example of dishonest reporting.
20. The grounds for attacking the complainant's record were never stated apart from the fact that the newspapers are no longer published. There was no attempt to deal with why the newspapers failed and yet the allegations were allowed stand to colour the programme.
21. The allegation that information has been withheld from shareholders is false. In particular, at the last AGM, the complainant outlined in more detail than he had ever done before how he held most of the shares in which he has an interest in trust. All information to which shareholders are entitled was and is given.
22. In response to a letter from Mint Productions the complainant asked what matters they wished him to address. The central allegations in the programme were never put to him. Mint first wrote to him at a very late stage in the planning and production of the programme.
23. The reference to the remuneration of the directors of Irish Press Plc for running a newspaper company that no longer publishes newspapers conveys a direct implication that the directors are misusing company funds. The fact is that Irish Press Plc shareholders are much better off financially than they would have been had the company closed ten years ago with the newspapers.

In conclusion, the complainant submits that the foregoing demonstrates an extreme bias on the part of RTÉ. There is a pattern of selective presentation of the

facts, the repetition of falsehoods without checking the facts or the sources and the suppression of facts that do not fit in with the story that RTÉ wished to broadcast. He submits that the manner in which the programme was made, the sources relied upon and the means whereby the programme gained access to Irish Press Corporation files is highly relevant to consideration of his complaint.

#### Station's Response:

RTÉ in their response state that the documentary was fair, accurate and thoroughly researched. The production team unearthed more than a hundred new documents, from both sides of the Atlantic, which were used to underpin each point made in the documentary. These documents are a significant addition to the Irish historical record.

The documentary set out to determine how exactly Eamon de Valera's controlling interest in the Irish Press Group had been acquired, and how it had been transferred to successive generations of his family. They believe that the documentary dispelled many myths and rumours that had grown up around that process, and replaced them with facts that could be verified through primary sources.

Dr. de Valera's central allegations are incorrect. The documentary did not assert that his grandfather was motivated by financial greed. It argued repeatedly that political considerations were uppermost in his mind, at least until he passed control to his son in the 1950s.

The documentary explicitly did not state that the American shares in the Irish Press Corporation were valueless. Using original documentation, the production team painstakingly showed that management in fact controlled the entire newspaper group and that the shareholders had no way of either exercising power or gaining financially from their investment.

The documentary did question whether the interests of the shareholders have been well served by the opaque system of legal and financial controls devised by Eamon de Valera and operated by his heirs. Dr. de Valera clearly resents this, but RTÉ believes it is a valid subject for public discussion and was scrupulously covered in all the RTÉ broadcasts by him.

RTÉ regrets that Dr. de Valera did not take the opportunity to make his points within the documentary. He declined two offers to take part in the programme, writing to the producer that "you will have to wait until I write my book".

1. The programme title was intended to illustrate a central theme of the documentary. The Irish Press was not founded as a family business, yet all three Controlling Directors of the company have been de Valeras. A member of the de Valera family has always controlled the vast majority of shares in the Irish company and, through a handful of voting shares, the American company. Since at least 1951, members of the de Valera family have been salaried directors of the Irish company. In 1985, one member of the de Valera family received a significant windfall currently worth hundreds of thousands of euros for just 100 shares in the American company.
2. As noted above, it was the programme's contention that the 'A' shares do have great value, but many shareholders would not have been aware of this. The producers discovered many letters sent by the American company in the 60s, 70s and 80s to class A shareholders and their relatives who were seeking information on the current worth of their investment. Nearly all contain the phrase 'there is no market at present for these shares'. Occasionally they are advised that a book value of \$5 has been placed on each share for Estate Tax purposes.

Dr. de Valera informed Mr. Corcoran that he estimated A class shares to be worth \$12. Mr. Corcoran concluded that this meant his grandfather's shares were effectively worthless, given the likely legal and broking costs involved. He was unlikely to have been aware that these shares indirectly represented a stake in an Irish company which had several million euros in cash holdings. Even if he was, as a class A shareholder Mr. Corcoran had no power to ensure that the Warburg Pincus windfall was equitably distributed to American shareholders. That power rests with Dr. de Valera as the owner of the American 'B' shares and the 'trustee' of the majority of the Irish Press Plc stock bought with American shareholders' money.

At the very least, this \$12 valuation is a disastrous return on shares bought for \$5 seventy years before. The valuation given to Mr. Corcoran also stands in contrast to the IEP£2,250 per share paid to Terry de Valera for his B class shares twenty years ago.

It is regrettable that Dr. de Valera did not take the opportunity to state his assessment of the value of A class shares within the documentary.

3. Dr. de Valera is accusing RTÉ of something that did not appear in the documentary. No-one was accused of being a crook. The documentary examined the records and concluded that ordinary investors would have had little idea that they were investing, not in the Irish Press, but in an American Trust company with a similar name over which they had no control.
  - a. Dr. de Valera elsewhere argues that his family has diligently upheld the financial interests of the American shareholders while referring here to their investments as 'donations'. Central to the documentary is this perception of investments as donations. This echoes the confusing and often contradictory nature of the appeals for US cash launched by Eamon de Valera in the 20s and 30s. Documents unearthed by the production team include advertisements calling on readers to '**invest** your savings in the Irish Press, **Ltd.**' (our emphasis). A circular issued by the 'Irish Press Limited American Office' speaks of potential dividends of '10%' or '15%' depending on circulation. It is reasonable to argue that many Irish-Americans considered themselves investing rather than donating to the newspaper.
  - b. For the record, the production team have a letter concerning a Miss Monohan who had a certificate for \$500 of Irish Press Corporation stock and who wished instead to have stock in Irish Press Ltd. Miss Monohan was fortunate in being able to visit Mr. De Valera's Dublin office in person. It seems that other American shareholders were also anxious to discover what was happening with their investments. This quest for information continued through the 60s and 70s as the documents cited in point 3 below.
  - c. Profits and dividends were of course not made available to American shareholders for some 50 years, by which time very few could be traced. Information was not easily 'made available for the donors, according to their respective donations'. The Certificate of Incorporation of the Irish Press Corporation explicitly states that '*no stockholder shall have any right to inspect any account or book or document of the corporation unless expressly so authorized by statute or by a resolution of the stockholders or the directors*'. Only the

- shares passed down through the de Valera family had the power to pass a resolution to open the books. It is worth noting that, until the documentary was broadcast and Dr. de Valera's correspondence began, very little was known about the inner workings of the Irish Press Corporation. Questions relating to the American company were routinely ruled out of order at Irish Press Plc AGMs.
- d. The production team discovered that some of the American investment was not used to buy Irish Press Ltd. stock in Eamon de Valera's name but kept 'liquid' in case of complaints. Correspondence from 1931 also refers to a standard letter being drafted 'to send out to the people who ask for an explanation as to the American stock instead of direct shares in the Irish company'. Another memo from Eamon de Valera suggests that he was preparing for 'adjustments' once Irish Press Corporation Certificates were issued to the subscribers. The questions arise: if setting up the Irish Press Corporation was really required by US State law; and if de Valera was satisfied that he was safeguarding the best interests of American investors; and if the organisers were confident that subscribers were aware that they would not receive Irish Press stock – why then did he predict that some investors would complain, and how could he legally plan to issue some 'large subscribers' with Irish Press Ltd. shares? RTÉ believe that it is correct for a public service broadcaster to raise these questions, given that they concern a major historical figure.
4. The 'Irish Press Limited American Office' circular states that the 'Irish quota...was over-subscribed on the closing date'. That alone illustrates that more money could have been raised in Ireland. Eamon de Valera himself limited the Irish quota to 50% of the share capital during the paper's launch. Half the money was to be raised in America, despite the difficult economic circumstances there. This was because the American subscriptions were to be used to purchase Irish Press Ltd. shares in Eamon de Valera's name.
  5. Dr. de Valera repeats his point of 3b. Frank P Walsh felt that the funds raised in America were 'by way of donations', therefore it is not surprising that he was happy to receive A class stock for his large contribution.
  6. This accords completely with the production team's own research into the share register prior to broadcast, and with Mr. Power's contribution to the documentary.
  7. Dr. de Valera accepts that the elaborate shareholding and board structure was devised to ensure that his grandfather had control. Many of the original subscribers may have approved of this, protecting as it did the editorial ethos of the paper. The documentary showed, however, that this power passed to Eamon de Valera's son and now grandson. Given that the Irish Press titles are no longer published, the need to 'secure...the policy of the paper' no longer arises. It is fair to state that the current situation was not foreseen by the founder or the original subscribers, yet the boardroom and shareholding controls continue to be exercised.
  8. The documentary and related broadcasts did not attack Vivion de Valera. They were justified in arguing that his experiences as a barrister, an army officer or a TD were not the reason why he was appointed Managing Director and later Controlling Director. The Controlling Director's exceptional powers were expanded in 1957 to allow Eamon de Valera to appoint a successor with the same 'powers, duties and immunities' as he enjoyed. De Valera underpinned the succession by transferring his B class shares in the American company to his sons.
  9. Elsewhere, Dr. de Valera rightly points out that the Irish Press was formed to promulgate Republican policies 'as explained by me to the public', as his grandfather put it. The papers were directly linked to Fianna Fáil through the party leader. Todd Andrews was not alone in believing that the Press was essentially a Trust owned by the party grassroots. There was unrest when it emerged that 'The Chief' regarded his large controlling stake in the paper as being held in a personal and not official capacity, and was therefore transferable to his son. Within a few years, Vivion de Valera was briefing staff that the Press was a 'de Valera paper, not a Fianna Fáil paper'. Even if this was a statement of editorial independence, it was not what the original subscribers had given their money for.

10. Dr. de Valera takes the unusual step of arguing that newspapers that had become national institutions by the 1950s were not successful. To make his point, he is selective in the information he has provided to the Commission. While the company did indeed report a loss in 1954 this was due to setting up the Evening Press. This title soon dominated the evening market, while the Sunday Press went on to sell a now unthinkable 419,000 copies per week by the mid-sixties. The accounts for the year before the example cited by Dr. de Valera show a different picture, a profit of £17,914 with an accrual of £85,105 from the year before. Criticism of the failure to pay dividends was not a construct of the documentary and not evidence of the 'extreme' bias. There was an energetic campaign by small shareholders to raise the issue of the 1967 AGM, for example.
11. As noted above, the documentary and related broadcasts did state that the shares had intrinsic value. Dr. de Valera's belief that 'for most, the fact that the newspapers were being published and seen to be successful was sufficient' is paternalistic at best. He also contradicts his statement in point 11 that the papers were **not** successful.
12. The B shares controlled the American company and therefore underwrote the de Valera family's controlling stake in the Irish company. That is why the shares were so valuable. It is inconceivable that the original subscribers would have intended for the de Valera family to realise a huge cash bounty for a handful of shares in an offshore company. This is particularly the case when it appears that, initially at least, Irish shareholders' funds were used to purchase the B shares from Terry de Valera.
- 13./15. Neither the documentary nor the related broadcasts contained any of the allegations attributed to Dr. Noel Browne cited in points 14 and 15 by Dr. de Valera. Much of his complaint in this regard appears to be with Dr. Browne's speech and not how it was covered by RTÉ. The historic Dáil debates of December 1958 and January 1959 were covered in the documentary in the following way. Dr. Noel Browne makes one statement claiming that Eamon de Valera has a serious conflict of interest between his role as Taoiseach and his role as Controlling Director of the Irish Press. Eamon de Valera is then quoted for approximately twice as long as Dr. Browne utterly rejecting the allegation that he has benefited financially or otherwise from the Irish Press. The production team took further pains to ensure that Eamon de Valera's position was fairly represented by not including the intervention by Oliver J. Flanagan that de Valera was 'robbing the shareholders of the Irish Press' which saw him ejected from the chamber. This was not sustained by the facts and therefore not included in the programme. Several aspects of Dr. de Valera's complaint relating to this debate are contradictory. In point 14, his grandfather 'immediately denied' a falsehood uttered by Dr. Browne (cited as evidence of 'deliberate bias on the part of the programme'), while in point 15 his grandfather 'had no opportunity to answer Dr. Browne in the debate'. Linking the debate to the announcement of de Valera's decision that he was to run for the Presidency is in one sentence 'ludicrous', yet in the next sentence he writes that Dr. Browne's debate 'may well have been taken into account'. The de Valera shareholding in 1959 was not quantified in the programme but, for the record, during the debate Eamon de Valera and his son Vivion represented 90,603 shares of Irish Press stock. This is far in excess of the 50,000 shares that Dr. de Valera takes issue with.
16. Eamon de Valera had publicly given up his company directorships on coming to power in the thirties. Anyone aware that he had continued as Controlling Director would be forgiven for assuming that this was an honorary position. Dr. de Valera overstates how easy it was to obtain information about the Irish Press's affairs, then and now. Dr. Noel Browne for example could find nothing out about the Irish Press Corporation, wrongly concluding in the debate that it no longer existed. This impression was not corrected by the Taoiseach or his nominees during the debate.
17. RTÉ submits that Mrs. McCoy's remarks were demonstrably true, both in her specific example, and that of the vast majority of American shareholders. Mr. Coogan was comparing WB Yeats' sense of disillusionment following independence to that of the original investors in the Press. The production team did not know what happened to the dividend income due to the shareholders of the American company. They asked Dr. de Valera about this in their letter to him of 8 September 2004.

The directors of the Irish Press Corporation (the American company) were not the subject of unfavourable comment in the documentary or related broadcasts. The Corporation's directors had the unenviable task of upholding the interests of the American company while complying with its *raison d'être*: to secure control of the Irish Press Ltd. for Eamon de Valera, and later his family. This led to some interesting examples of corporate governance.

18. Dr. de Valera accepts elsewhere that his grandfather was intent on securing control of the Irish Press. We do not see therefore how Mr. Coogan's comments here are grounds for complaint.
19. RTÉ also agrees that the Irish Press is not a family business, in that it is not one in which the capital was built up within the family, or was subscribed to on the understanding that it would be run on a hereditary basis. Despite the undoubted contributions of professional editors, managers and board directors, the business remains in the control of the de Valera family.
20. RTÉ strongly argues that the shareholders' opinions highlighted in the documentary are representative. The motion referred to by Dr. de Valera did not feature in the documentary, although he appears to be suggesting that he has no need to use the massive block of shares he controls. In fact, even in the most recent AGM, Dr. de Valera used the 438,000 shares he holds 'in trust' to vote through several motions against the opposition of small shareholders.
21. The documentary and related broadcasts did not 'attack' Dr. de Valera's record. The programme confined itself to explaining how hereditary control of the business came about, questioning whether this had been intended by the shareholders and whether it was in their interests. Some reviewers of the programme felt that it should have focused more on the calamitous events that led to the newspapers' collapse in 1994, including fraud by a family member appointed to the board during Dr. de Valera's time. Dr. de Valera's record in running the business was not the subject of the documentary; the process by which he came to run it was.
22. Dr. de Valera concedes that he is the arbiter as to how much information 'shareholders are entitled'.

23. This is the central point for RTÉ. We submit that Dr. de Valera was given two opportunities to either brief the production team or to make his points within the documentary. The correspondence from the production team spelt out in detail that the documentary was looking at the share-ownership structure of both the Irish and American companies, as well as the historical importance of the Press titles. Dr. de Valera's assertion that he was contacted 'at a very late stage' in the planning and production of the programme is untrue. He was first written to on 23 July 2004, early in production, replying to that letter one month later. The production company provided Dr. de Valera with specific questions they would like to discuss with him on 8 September. The programme was not completed until shortly before transmission on 2 November.
24. No-one was accused of 'misusing company funds' in the documentary. The question was asked, by contributors, whether the shareholders would not be better off if the loss-making company was closed and its remaining assets distributed to them. The Press Group has large overheads, including directors' fees and rent, which do not seem to be able to be covered by trading activity. It was in the interests of the shareholders for the company to continue to exist while the litigation with Warburg Pincus was pursued. Once that case was settled in the company's favour for €7.6m, it is reasonable to argue that a windup of the company would have released substantial funds for shareholders.

This was an honest programme that brought a matter of public interest to the public's attention. It was an impartial and fair programme that fully avoided any infringement of statutory obligations in regard to impartiality, objectivity and fairness.

#### **Decision of the Commission:**

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint made by Dr. de Valera has been rejected with reference to Sections 24(2)(a)(impartiality) and (f)(slander) of the Broadcasting Act, 2001. In assessing this complaint, the Commission only took into account issues directly relating to the programme broadcast on 26 July 2005. References to other broadcasts, debates and comments in the print media were not considered.

This edition of 'Hidden History' series depicted the story of the Irish Press company and in particular, the roles and influence of Eamon de Valera and members of his family. The Commission is of the view that such a topic is of public interest and a legitimate subject matter for a broadcaster to chronicle and examine. What is of interest to the Commission is that it is done so in a fair and balanced manner. Given the subject matter of the programme, an issue directly relating to Dr. de Valera, the programme makers appropriately, and as one would expect, offered Dr. de Valera the opportunity to participate in the programme. He declined to do so.

The Commission was of the opinion that the decision of Dr. de Valera not to participate in the programme did not preclude the programme makers from investigating and reporting on the subject matter. This programme was a critical examination of the history of the Irish Press, which included an in-depth scrutiny of the de Valera family involvement. The Commission noted this fact and acknowledged that it could understand the reaction of Dr. de Valera to the programme. In the opinion of the Commission, however, the programme was not unfair in light of the fact that the central theme of the programme was substantially correct. This was an impartial investigative programme, justified in terms of its subject matter. It was a topic of public interest and it was presented in a balanced manner. The Commission could find no evidence of editorial bias in this broadcast. The complaint was rejected.

**5.18** *Complaint made by: Mr. C.G. Flynn*  
*Ref. No. 217/05*

**Station:** RTÉ Radio 1  
**Programme:** News at One  
**Date:** 4 October 2005

**Complaint Summary:**

Mr. C.G. Flynn's complaint, submitted under Section 24(a)(impartiality), relates to an interview broadcast during the 'News at One'. He states that Seán O'Rourke interviewed the Tánaiste and Minister for Health, Mary Harney, T.D. His approach to her was hectoring, intimidatory and aggressive. He interrupted her attempts to answer his questions on more than one occasion and clearly wanted to make his own points on air rather than seek the facts. In Mr. Flynn's opinion his conduct was disgraceful and unprofessional and he believes that Mr. O'Rourke should apologise to the Minister and the public.

**Station's Response:**

RTÉ in their response state that the Health Service Executive (HSE) had announced suspension of the roll out of a computer system designed to introduce a unified payment system across the 11 Health Boards. The system was said to have cost €150 million. A review was to take place. The Minister for Health, Mary Harney T.D., was interviewed on the programme about the decision to suspend the programme. Mr. Flynn's perception of the interview differs completely from RTÉ's. In RTÉ's view, the interview was a thorough and impartial interview with a Government Minister whose Executive had raised considerable doubts about the wisdom of proceeding with a computer programme which had already cost the public purse €150 million. In these circumstances, RTÉ believes the interviewer's approach was completely justified. Mr. O'Rourke was at all times courteous.

**Decision of the Commission:**

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint made by Mr. C. G. Flynn has been rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act, 2001. The interview was conducted on foot of the news of the proposed suspension of the roll out of a new computer system to be used by the HSE. This was a topic of public interest which was explored in the interview with the Minister for Health, Tánaiste Mary Harney, T.D, in an impartial manner. The views presented by the Tánaiste were fairly challenged. The interviewer facilitated a robust discussion and the interviewee was given the time she needed to respond to the questions posed. The interview was conducted in a fair manner and its content typical of the type of questioning a Minister would expect. There was no evidence of editorial bias in this programme. The complaint was rejected.

**5.19** *Complaint made by: Mr. Seán O'Carroll*  
*Ref. No. 222/05*

**Station:** RTÉ TV1  
**Programme:** The Late Late Show  
**Date:** 18 November 2005

### Complaint Summary:

Mr. O'Carroll's complaint under Section 24(2)(a)(impartiality) of the Broadcasting Act 2001, refers to an interview with Walid Shoebat. He believes the interview was not conducted in an impartial manner and that Mr. Kenny led Mr. Shoebat through the interview and at various stages Mr. Kenny pre-empted answers and questions with his own views. One of the most serious occasions where this occurred was when Mr. Kenny stated: -

*"What is the future, though, I mean if you've got, they say, 250 million people...who want an end to western civilization".*

It is Mr. Carroll's view that the entire interview was conducted in an impartial manner and that the above statement was the most obvious example of this impartiality.

### Station's Response:

RTÉ in their response state that Mr. Shoebat was introduced by the programme presenter, Pat Kenny, in the following manner "What goes through the mind of a suicide bomber?...Walid Shoebat was a terrorist.... he can understand the mindset of a bomber". It is RTÉ's view that the interview was conducted in a completely impartial manner and that at no time did Mr. Kenny express any of his own views. The introduction was not misleading. The presenter gave the guest the opportunity to express his views on the Islamic world. Mr. Kenny did not indicate his agreement or disagreement with the views Mr. Shoebat expressed. He allowed members of the audience to hear what Mr. Shoebat had to say and to make up their own minds.

RTÉ, through the presenter of the programme adopted an entirely neutral attitude to what Mr. Shoebat was arguing. What Mr. O'Carroll interprets as the programme being partial is actually his disagreement with the views expressed by Mr. Shoebat. Mr. Shoebat is as entitled as anyone else to express his views. This is the basis of freedom of speech and freedom of expression.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint made by Mr. Seán O'Carroll has been rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001. This complaint relates to the segment of the programme in which a guest, Mr. Walid Shoebat, spoke about his life

and his opinions on the Islamic world. The viewer was made aware that Mr. Shoebat was a former terrorist. The viewer was also aware that the views and opinions expressed were from his own perspective. To explore the work of a prominent individual is a legitimate editorial decision for a broadcaster to make. This programme regularly interviews well-known people about their lives. The viewer is left to make his/her own judgement. The presenter let Mr. Shoebat tell his story. The presenter's style was relaxed and impartial and the tone of the interviewer was at all times temperate. While the Commission would acknowledge that the wording of the particular sentence in question was regrettable, the manner in which it was asked, and given the context of the whole interview, did not give rise to partiality or bias on behalf of the presenter. The Commission was of the opinion that the question was asked during this live broadcast simply to elicit information from the interviewee. The complaint was rejected.

**5.20** *Complaint made by: Mr. Michael F. Crowe  
Ref. No. 231/05*

**Station:** RTÉ TV1  
**Programme:** The Late Late Show  
**Date:** 28 October 2005

### Complaint Summary:

Mr. Crowe's complaint, under Section 24(2)(a)(impartiality), refers to an interview with British MP George Galloway. Mr. Crowe believes that the presenter of the show, Pat Kenny, failed to properly question Mr. Galloway over his assertions of Anglo-American support and arms supplies to Iraq and Saddam Hussein. He presents several examples to illustrate this impartiality. For instance he quotes Mr. Galloway as stating (re Saddam Hussein); *'the West chose him, the West kept him in power'* and *'Saddam Hussein is getting a Kangaroo Court'*. Mr. Crowe states these allegations were neither challenged nor questioned.

Furthermore, Mr. Galloway asserted that the 'Washington Post' and 'New York Times' censored part of his Senate evidence. This implies either a conspiracy or government edict on press reporting and should have been questioned by Mr. Kenny. Mr. Crowe believes that items he has listed together with the general attitude of the programme require that RTÉ be made apologise for its bias and issue a statement clarifying the facts.



### Station's Response:

RTÉ in their response state that George Galloway is a well known member of the Westminster Parliament, who campaigned vigorously, including famously at the US Senate Committee, that American and British involvement in Iraq is morally wrong and that the two Governments have engaged in a whole series of lies about the true situation in Iraq. Shortly before his appearance on 'The Late Late Show', the US Senate Committee had stated that Mr. Galloway's wife had compromised herself by accepting money from the Saddam Hussein Government as part of the food-for-oil programme. His appearance on the programme would afford Mr. Galloway the opportunity of responding to this accusation. RTÉ believe Mr. Crowe's complaint is based on the premise that by not challenging Mr. Galloway's statements RTÉ failed to be impartial, i.e. that RTÉ was partial and therefore supported Mr. Galloway's statement. RTÉ does not accept that there was any partiality. Mr. Galloway was given the opportunity to make his arguments and explain his position. Mr. Kenny did not signal either agreement or disagreement.

It is RTÉ's view that the presentation of the programme was entirely neutral and therefore impartial. The notion that somehow each interviewee who gives his/her opinion has to be 'balanced' by either having a guest with differing views included in the discussion or a presenter challenging what is said is untenable.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint made by Mr. Michael Crowe has been rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001. This complaint relates to an interview conducted with Mr. George Galloway, a well-known British politician. Mr. Galloway spoke mainly about the war in Iraq and his opinions on the British and American involvement in this war. The viewer was at all times aware that the views and opinions expressed were those of Mr. Galloway's. This programme regularly interviews well-known people. It is a legitimate editorial decision for a broadcaster to make to explore the work of a prominent individual. The viewer is left to make his/her own judgement. What is of importance to the Commission is that the interview is conducted in a balanced manner. The presenter allowed Mr. Galloway to present his own opinions and views. Questions were posed to elicit information from the interviewee in a fair and impartial manner. There was no evidence of editorial bias in this interview. The complaint was rejected.

**5.21** *Complaint made by: Mr. Denis Rice  
Ref. No. 237/05*

**Station:** RTÉ Radio 1  
**Programme:** News at One  
**Date:** 24 November 2005

### Complaint Summary:

Mr. Rice's complaint, submitted under Section 24(2)(a)(impartiality), relates to an interview with Joe Higgins T.D. by Seán O'Rourke on a broadcast of the 'News at One'. The complainant states that Mr. O'Rourke has a political agenda which came through in this interview concerning Irish Ferries. If it had been a Fianna Fáil T.D. or Minister, it would not have been tolerated and, furthermore, Mr. O'Rourke's job would be on the line. It is unacceptable on RTÉ's main news programme for a presenter to be so rude and ignorant.

### Station's Response:

RTÉ in their response state that they believe Mr. Rice's perception of the interview is not based on facts. The interview was on the subject of the dispute in Irish Ferries. When Members of the Commission hear the interview, they will hear a competent, professional current affairs presenter carry out a fair and vigorous interview with a politician who is well used to being interviewed by the media and is well-able to defend his views. The background to the interview was that Deputy Higgins had raised the issue in the Dáil and had challenged the Taoiseach's position on the dispute in Irish Ferries. On foot of his Dáil remarks Deputy Higgins was invited to be interviewed on the 'News at One' programme. Deputy Higgins was interviewed on his own. Therefore, it fell to the interviewer to challenge some of the Deputy's statements. Seán O'Rourke did this in an impartial manner. Politicians expect as part of the political communication process they will be subjected on occasion to tough interviews from broadcasters. This is what Deputy Higgins received on 24 November. It is RTÉ's view that the interview fully conformed to all statutory requirements.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint made by Mr. Denis Rice has been rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act, 2001. The subject matter of the interview was the opinion of

Deputy Joe Higgins on the staffing dispute concerning Irish Ferries. The interviewer questioned and challenged the views expressed by the Deputy in a fair and balanced manner. It was a robust interview, typical of the type of questioning one would expect in the political arena. There was no evidence of editorial bias in this broadcast. The complaint was rejected.

**5.22** *Complaint made by: Mr. Ciarán Mac Samhráin*  
*Ref. No. 17/06*

**Station:** Newstalk  
**Programme:** The Wide Angle with Karen Coleman  
**Date:** 22 January 2006

### Complaint Summary:

Mr. Mac Samhráin's complaint, under Section 24(2)(a)(impartiality), refers to a discussion concerning the Catholic Church in Ireland today, lasting over 10 minutes. It was appallingly partial with no positive nor simply even-handed statements made regarding the Catholic Church. Whilst this may be acceptable from perhaps all of the guests, the presenter, Karen Coleman, made it abundantly clear that, not only was she in agreement with the viewpoints expressed, but was even more vehement about them was outrageous. Mr. Mac Samhráin rang the programme and was offered the opportunity of airing his grievances live on-air, which he appreciated. However, whilst this may be a good and fair professional approach, unless someone is trained and/or very well-practiced at public-speaking or similar, a person "in the right" can easily be made out to be "in the wrong" by broadcasters/presenters/voice journalists.

Mr. Mac Samhráin further states that the panellists strayed from reviewing the particular newspaper(s) in question and discussed the Catholic Church in general terms in an outrageously one-sided fashion.

### Station's Response:

Newstalk in its response states that it was not a discussion concerning the Catholic Church in Ireland today but was part of the regular hour-long newspaper review conducted with a panel of contributors. The review examines the main stories in the Sunday newspapers and how the various publications have chosen to treat each story. As part of the hour-long broadcast, four stories were reviewed by the panellists. The newspaper review dealt with the 3-4 pages of

coverage in the 'Sunday Independent' newspaper on a few members of the catholic clergy, including an opinion poll carried out by the newspaper. Newstalk disagree with Mr. Mac Samhráin that there was "...no positive nor simply even handed statements made regarding the Catholic Church whatsoever". On a number of occasions the programme panellists gave informed and positive opinion on the future of the Church while the Presenter read out supportive listener comments.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The broadcast item in question relates to the review of the main stories in the Sunday newspapers. This included a panel discussion on articles dealing with a 73 year old priest who fathered a child with a younger woman and also included references to Bishop Eamon Casey. The discussion started with one of the panellists questioning why these issues got such coverage. A reference to a survey was made which asserted 70% of those polled were opposed to celibacy. She asked what is the relevance of the coverage, who really cares? Subsequently the issue of hypocrisy was discussed. The panellists continued to discuss the contents of the newspaper articles. They put forward their views and opinions on what the Church could do going forward. The main thrust of the discussion was that society in general has moved on, and therefore, it may be time for the Catholic Church to reform. On listening to the discussion, it was evident that it was based on the newspaper articles. This is what a listener would expect. This was a fair and unbiased discussion during which the panellists explored, and proffered their opinions, on the content of the articles as written and presented in the papers. There was no evidence of editorial bias in this piece. It was a factual discussion based on the reports, and a survey, contained in the newspapers that Sunday. The complaint made by Mr. Mac Samhráin has been rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

**5.23** *Complaint made by: Mr. James O'Quigley*  
*Ref. No. 23/06*

**Station:** Radio Kerry  
**Programme:** News Bulletin  
**Date:** 27 January 2006

### Complaint Summary:

Mr. O'Quigley's complaint, under Section 24(2)(a)(impartiality), refers to a news item broadcast on Radio Kerry. The news item referred to the announcement of grants being allocated for festival and cultural projects in Kerry. Mr. O'Quigley states that this money was being allocated from Minister John O'Donoghue's department and the announcer went on to say it was welcomed by him and Deputy Tom McEllistrim, T.D. He further states this is a common practice in Radio Kerry, when there is good government news announced, very often they say 'this is welcomed by Minister John O'Donoghue etc'. It seems to Mr. O'Quigley that Radio Kerry is not an independent broadcaster. He feels this situation has been ongoing for some time.

### Station's Response:

Radio Kerry state that the allocations were made by Minister John O'Donoghue, Department of Arts, Sports and Tourism and, as a result, were announced by him. The same would have occurred in the case of Health announcements being made by the Tánaiste Mary Harney, or Education announcements by Minister Mary Hanafin.

The copy used by Radio Kerry is very much abbreviated statements of the facts and does not include personal statements by either politician. It is an unavoidable fact that politicians of whichever party is in Government are more often in a position to make such announcements and it is not an indication of any bias by Radio Kerry. The tone of the copy used by Radio Kerry in pointing out that the largest allocation went to a project in the Minister's own constituency was to highlight this potential inequity.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The news item in question was factual and drawn from the press releases submitted to the broadcaster on the issue. The content simply reflected the content of these press releases: - the grant allocations for the area; the grants were made by Minister John O'Donoghue's Office; and the statement made by Deputy McEllistrim, a local Kerry TD. The news item was based on fact and there was no evidence of editorial bias in the report. The complaint made by Mr. James O'Quigley has been rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

**5.24** *Complaint made by: Mr. Andrew O'Brien  
Ref. No. 31/06*

**Station:** Newstalk  
**Programme:** The Right Hook  
**Date:** 6 February 2006

### Complaint Summary:

Mr. Andrew O'Brien's complaint, under Section 24(2)(a)(impartiality) of the Broadcasting Act 2001, refers to a discussion on Israel on a broadcast of 'The Right Hook'. The presenter announced that later in the show there would be a debate regarding the nation of Israel. Later in the show the presenter then stated that Mr. Justin Keating would be against the right of Israel to exist as a nation and he, George Hook, would defend Israel's right to exist. It was a disgraceful (and largely uninformed and downright incorrect) one way anti-Israel speech. This was left unchallenged due to George Hook's inability or lack of desire to refute. If a proposed contributor is not available to come on-air, surely the piece should be postponed.

### Broadcaster's Response:

Newstalk submits that during the course of the discussion the presenter, George Hook, made a number of attempts to counter the views of the programme guest Mr. Justin Keating in relation to the state of Israel in an informed and correct manner. Of the text messages and caller comments aired by the programme, the majority voiced an opinion opposed to that of the guest Mr. Justin Keating.

It was proposed to have two panellists to discuss this item. However, on the day one of the panellists could not be contacted. The programme-makers decided to proceed with the item. In this broadcast item, the presenter ensured a counter argument was offered and the station does not believe the item constituted 'a one sided tirade against the people of Israel' as claimed by Mr. O'Brien.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint relates to the segment of the programme in which a guest, Justin Keating, spoke about his opinions on the nation of Israel. In assessing this complaint, the Commission had regard to the content of the broadcast only. The decision of whether

to continue with a programme item is an editorial one and such a decision is made independently by the broadcaster. Therefore, in the context of the issue under discussion, the fact that one of the panellists was not available is not relevant to the assessment of this complaint. What is of importance to the Commission is that the interview as broadcast was conducted in an impartial manner.

The Commission noted that the listener was made aware at the start of the programme that Mr. Keating had written an article *'questioning the right of the existence of the State of Israel.'* The listener was also made aware that the views and opinions they would hear would be from Mr. Keating's perspective. During the course of the interview, the presenter explored and questioned the views Mr. Keating put forward. The Commission was of the opinion that these questions were posed to elicit information from the interviewee in a fair and impartial manner. There was no evidence of editorial bias in this interview. The tone of the interview was at all times serious and well-mannered. This discussion did not amount to a tirade against the people of Israel as alleged by the complainant. The Commission was of the view that the interview was impartial and that it legitimately and fairly explored and questioned the views of Mr. Keating. The complaint made by Mr. Andrew O'Brien was rejected with regard to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

**5.25** *Complaint made by: Respond! Housing Association Ref. No. 33/06*

**Station:** Clare FM  
**Programme:** Morning Focus  
**Date:** 9 February 2006

**Complaint Summary:**

Mr. Brennan's complaint on behalf of Respond! Housing Association, under Section 24(2)(a)(impartiality) and (f)(slander), refers to a discussion between the Presenter, Cian Ó Síocháin and Councillor Tony Mulcahy. The background to this complaint is that Respond! Housing Association purchased a site, from its own resources, at Tullyvarraga Hill in Shannon for the purposes of developing social housing. Councillor Mulcahy on 'Morning Focus' suggested that Respond! was 'profiteering' with public money and stated that Respond! had 'serious questions to answer'. Throughout the interview, the presenter was clearly biased towards the views of his interviewee and made a series of statements which came across as the broadcaster's own

views. He feels that the way in which the interview was conducted was such that it encouraged the statement of inaccurate information and facts – which had the effect of an attack on the dignity and reputation of Respond!

**Station's Response:**

Cian Ó Síocháin on behalf of Clare FM states that he stands by his performance during the broadcast in question. He does not feel he was in any way 'biased' towards the interviewee and stands by his assertion that Respond! still has questions to answer regarding the issue. He was not reassured in any way regarding this situation by Mr. Brennan's appearance on 'Morning Focus' on 10 February 2006.

**Decision of the Commission:**

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that the complainant only referred to one programme in his complaint, that of 9 February 2006. The broadcaster submitted its response with reference to two broadcasts; 9 and 10 February 2006. Under broadcasting legislation, 'two or more related broadcasts may be considered as a whole; provided that the broadcasts are transmitted within a reasonable period'. Therefore, the Commission's assessment of this complaint is based on both broadcasts. The Commission noted that the broadcaster contacted Respond! prior to the broadcast of 9 February 2006. The issue at the centre of both programmes was the decision of Respond! Housing Association to sell a site rather than develop it for social housing as planned. In the broadcast on 9 February 2006 the listener was made aware that Councillor Mulcahy was concerned by the sale of the site and he had questions he would like Respond! to answer. His concerns included that he would not like to see voluntary housing agencies set up on a trust basis, developing such strategies; *'voluntary housing agencies are going to be sold land with the premise of developing a social housing project....and then when things get a bit shaky, don't work out as planned....put it on the open market.... effectively profiteering at that stage'*. The reference was to voluntary housing agencies in general. The Commission was of the view that on hearing this piece, one could not determine it was an attack on Respond!. It was an opinion about what Cllr. Mulcahy believes should not be a focus for voluntary housing agencies. The listener was aware that the discussion in this broadcast concerned the point-of-view of Cllr. Mulcahy. In the course of the interview, the presenter asked, *'What obligations are on Respond! now to*

*answer these questions, coz there are serious questions to be answered?* This could not determine the bias of the programmes. Given the context of the whole interview and the manner in which the question was asked, the Commission was of the view that it did not give rise to partiality or bias on behalf of the presenter. The Commission was of the opinion that the question was asked to elicit information. Also, it was clear to the listener that the presenter wanted to talk to Respond!. That is, it was evident that Respond!'s viewpoints were not expressed in this interview. At the end of the programme, the presenter stated, *'We are going to continue trying to contact Respond! and hopefully we'll bring you an update on that very very interesting story as this week progresses, only one day left but...if it does take the weekend we will hopefully continue next week at some point.'* The Commission noted that the following morning Mr. Ned Brennan, National Director of Respond!, participated in the programme.

In assessing this complaint, what was of importance to the Commission was that the relevant agency was afforded a fair right-of-reply and that the programmes were presented in an unbiased manner. The issue under discussion related directly to Respond!. Therefore, it was appropriate that they were offered a right-of-reply. At the start of the interview on 10 February 2006, Mr. Ned Brennan stated: *'...Well first of all Cian I'd just like to point out that I am speaking here this morning on behalf of Respond! of our own volition. We've no obligation here to keep anyone informed in relation to this proposed development, as the lands here in question were funded from our own resources. There are no local authority funding made available or no government funding made available for the purchase of this site'*. The interview proceeded as such, with the Director of Respond! given ample time on-air to state the agency's case. He discussed in detail what he believed were the errors in the previous day's broadcast. Later in the programme, Cllr. Mulcahy joined in the discussion. Mr. Brennan questioned Cllr. Mulcahy on the viewpoints he expressed the previous day and also challenged him on a number of points. He further challenged the presenter and purported that the station maligned Respond! with the salacious remarks and false allegations made in the broadcast of 9 February 2006.

The Commission noted that the topic was of public interest and it was presented in a balanced manner. In the overall context of the two broadcast items, the complainant was given a fair right-of-reply. In the opinion of the Commission, the presenter facilitated a serious and fair discussion on an issue of public interest. The relevant agency was afforded the opportunity to present their case and to respond to the points

made by Cllr. Mulcahy without interruption. There was no evidence of editorial bias in the interviews. The complainant also asserted that this broadcast was slanderous. In the context of the discussion, it was the decision of Respond! to cease a housing project and to sell the site that was under scrutiny. There were no allegations made about any Respond! employees, of inaccurate facts or information in relation to them personally or professionally. There was no evidence of an assertion which constituted an attack on anyone's honour or reputation. Therefore, the broadcasting regulation concerning slander does not apply. The complaint made by Mr. Brennan, on behalf of Respond!, was rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

**5.26** *Complaint made by: Ms. Ann Callaghan  
Ref. No. 42/06*

**Station:** RTÉ Radio 1  
**Programme:** Liveline  
**Date:** 23 February 2006

#### Complaint Summary:

Ms. Callaghan's complaint made on behalf of Plurk Unlimited Ltd. t/a Indigo Essences, under Sections 24(2)(a)(impartiality) and (f)(slander), refers to a discussion between the Presenter, Joe Duffy and Ms. Callaghan, one of the Directors of Indigo Essences. Ms. Callaghan states that comments in her defence were not aired. Mr. Duffy allowed callers to the show to make inaccurate comments about Indigo Essences and did not correct what they said e.g. he allowed callers to refer to Indigo Essences as brandy mixers when it had been stated several times that at the point of administration the alcohol content of an essence is negligible. She has evidence that 'Liveline' screened callers to the show and only allowed on air those callers with negative views. Had she been aware of the exact nature of this programme, she would have chosen to take other measures.

Ms. Callaghan further states Mr. Duffy allowed callers to imply that she had neither the requisite training nor experience to deal with children in a therapeutic situation. Mr. Duffy himself dismissed what she had to say as lunacy and gobbledegook. Ms. Callaghan states that she is an experienced international teacher of homeopathy and essence therapy for children. Ms. Callaghan states that her complaint centres on the presenter allowing his own personal feelings about her and about essences to interfere with his judgement and professionalism.

### Station's Response:

RTÉ in their response state that a school teacher from Bray, Co. Wicklow phoned 'Liveline' on 23 February expressing her concerns at a brochure she received through her letterbox which included an advertisement for 'Champion' which purports to be a 'tonic' for schoolchildren. The advertisement stated 'Champion – for when you are bullied' and 'put the play back in playground'. The teacher stated that as someone who deals with bullying she was horrified at any suggestion that the solution to bullying could be found 'in a bottle'. This concern was put to Ms. Callaghan, a director of the company who explained that her product 'picked up the vibration of energy in a flower and that this energy was then preserved in a solution containing brandy'. Ms. Callaghan acknowledged that there was no scientific basis for her claims that the product helped children, but that many people had told her it did. She also acknowledged that the effect of the product could be psychological or psychosomatic and that the only purpose of the brandy was to preserve the energy pattern of the essence.

Several callers went on air to express their criticism of the product including an Irish doctor listening to the programme in Yorkshire who described the product as 'very bad medicine'. Joe Duffy offered Ms. Callaghan the opportunity to respond. The next caller, Fionnuala Kilfeather, President of the National Parents Council described the 'tonic' as 'insidious' and a product that did not in any way address the causes of and solutions to bullying. At this point Ms. Callaghan remarked that in her opinion, the victims of bullying were 50% responsible for bullying. At this suggestion, Joe Duffy became animated and said that Ms. Callaghan was speaking 'gobbledegook'. He was outraged at her suggestion. Ms. Callaghan responded by saying she had put the point badly, but 'there were two parts to the equation'. Two more callers to the programme were both critical of Ms. Callaghan's 'tonic' especially its alcohol content. Again, Ms. Callaghan was given the right to reply.

RTÉ refutes any suggestion of unfairness or failure to observe impartiality in this programme. Ms. Callaghan was given extensive opportunities to respond to all criticism. The only time the programme became heated was when Ms. Callaghan made the claim about victims of bullying being 50% responsible. She herself withdrew this claim. Ms. Callaghan claims no one was permitted to contribute to the programme who wished to defend her. The production team found the majority of callers were highly critical of the 'tonic'. Contributors were chosen for the expertise they brought to the topic.

Only two calls were in defense of the products and these were deemed by the researcher to be unreliable. Ms. Callaghan further claims that the programme was not impartial and that inaccuracies about the product were broadcast. RTÉ strongly reject these claims. Ms. Callaghan had ample opportunity to correct any inaccuracies. Several contributors to the programme, with medical and counselling expertise challenged her claims yet she relied on some anecdotal evidence that consumers found the 'tonic' did them good. RTÉ also reject any suggestion by Ms. Callaghan that defamatory material was broadcast.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. This broadcast of 'Liveline' looked at a number of products by a company called Indigo Essences, aimed at children. The products included 'Champion, for when you feel bothered by bullies'; 'Invisible Friend, for when you feel lonely'; 'Settle, for when your feel rattley and shakey'; and 'Shine, for when you're afraid to be the star you really are'. In investigating the products, RTÉ was entitled to select the callers to interview for the programme. What is of importance to the Commission is that the relevant company was afforded a fair right-of-reply and that the programme was presented in an unbiased manner.

The discussion was a serious and analytical examination of the cure effects of products aimed at children, as claimed and advertised by Indigo Essences. The Commission noted this fact and acknowledged that it could understand the company's reaction to the programme. However, the Commission believed that the subject matter of the programme was not unfair in light of the time afforded to Ms. Callaghan to respond to the issues raised. The Director of the Company was given ample time on-air to state her case and to respond to the points made by the callers. The presenter questioned her thoroughly on all aspects of the product. She was also asked if there was any proof of the claims for the products as advertised. It was a topic of public interest and presented in a balanced manner. She was allowed to respond to all questions and assertions without interruption. Overall, the tone and manner of the broadcast was restrained and serious and the interviewee was afforded ample time to respond to the issues raised by the presenter and by each caller. The Commission noted that the presenter did react on one occasion to a statement made by Ms. Callaghan in which she said, *'I would say the individual child has at least a 50% involvement, in that they are allowing*

*themselves to be bullied*'. In the overall context of what was an extensive programme where the complainant was given sufficient air time to express her views, this reaction alone could not determine that the broadcast was unfair or biased. In the course of a live interview the presenter re-acted to a statement. While he could have done so with more decorum, he subsequently afforded Ms. Callaghan the opportunity to respond. This included asking her to support her statement with evidence. In the opinion of the Commission, the presenter facilitated a serious and fair discussion on an issue of public interest. The relevant company was given a fair right-of-reply. The complainant also asserted that this broadcast was slanderous. In the context of the discussion, it was the products of the company and the alleged cures that were under scrutiny. There were no allegations made about Ms. Callaghan of inaccurate facts or information in relation to her personally or professionally. There was no evidence of an assertion which constituted an attack on her honour or reputation. Therefore, the broadcasting regulation concerning slander does not apply. The complaint was rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

**5.27** *Complaint made by: Col. James Mortell  
Ref. No. 52/06*

**Station:** TG4  
**Programme:** Éalú  
**Date:** 2, 4 & 9 March 2006

**Complaint Summary:**

Col. James Mortell's complaint, under Section 24(2)(a)(impartiality) and (b)(taste & decency, law & order), refers to three broadcasts concerning prison escapes by terrorists. The first two broadcasts dealt with the escape of 38 convicted PIRA terrorists from the Maze prison in 1983 whilst the third dealt with the escape of three convicted PIRA terrorists by helicopter from Mountjoy prison. At no point did TG4 point out that that the IRA was a proscribed organisation nor that the terrorist criminals had been let out of prison under the Good Friday Agreement without payment of a penny compensation to the next-of-kin of those whom they had murdered or to the victims whom they had maimed. The following details the substance of his complaint:

**Impartiality:** the broadcaster gave unfettered access to our national public service to members of an unconstitutional and illegal organisation, thus allowing them gain free publicity and propaganda, without

providing for the presentation of countervailing points of view by supporters of our Constitution and laws. During the escape from Maze prison two guards died. Where was the impartiality of TG4 in failing to have the next-of-kin (or other representatives) of those men interviewed? No-one spoke for the thousands of other victims of IRA terrorism over the thirty-five year period 1969 to 2005.

**Taste & decency:** the broadcaster gave offence to all the victims and next-of-kin of IRA terrorist acts between 1969 and 2005 by treating these criminals as normal civilised, law-abiding people and not as members of a terrorist organisation. Does TG4 really believe that it is in good taste to have convicted criminals given several hours of free publicity to talk in a casual and wholly unrepentant manner about their two prison escapes?

**Law & order:** it is self-evident that these programmes have helped to undermine respect for law and order in this State. The clear impression was given by TG4 that it was acceptable for criminals to be allowed to appear in a series without one word of condemnation of their actions. The complainant submits that the enemies of the State, such as members of the IRA, should as a matter of principle, not be allowed unfettered access to our Public Service. To allow such access undermines public order, morality and the authority of the State.

**Broadcaster's Response:**

TG4 states that two of the programmes in question are episodes from a TG4 documentary series on famous (or infamous) escapes from prisons in Ireland. One tells the story of a breakout by IRA prisoners from the Maze prison in Northern Ireland in 1983 and the other recalls a helicopter escape of prominent Republican prisoners from Mountjoy Prison in Dublin in 1973. Like other programmes in the series, each episode tells the story of a particular jailbreak. In keeping with the series format, programmes do not go into any great detail on prisoners' background, arrest, trial, sentencing or their subsequent lives. Neither do the programmes deal with the rights and wrongs of the political or security situation of the time. The narrative in each programme centres on the escape itself – the intelligence, logistics, planning, execution and immediate aftermath.

The series is not – and does not claim to be – a comprehensive history of the Troubles. Neither is it a detailed chronicle of terrorism in Ireland or reflective discourse on attempted subversion of the State. TG4 completely rejects the complainant's claim that these programmes are 'pro-IRA' or that they are in some way not 'ad-idem with the Constitution'.

### Decision of the Commission:

The Commission has considered the broadcasts, the submissions made by the complainant and the broadcaster. The Commission notes that the main thrust of the complaint is that the subject matter was not appropriate for broadcast on an Irish public broadcasting station. The decision of what to broadcast is the responsibility of the broadcaster. The BCC does not, and cannot, interfere in this role. Freedom of expression is an important right and the Commission acknowledges and respects this right. There is no prohibition on covering prison escapes. Therefore, the programme-maker is entitled to make a programme dealing with such escapes. Such events are of interest to the public and also, may have historical interest and importance.

As stated, these programmes dealt with well-known prison escapes. The Commission noted that they were based on fact. The viewer was informed through reconstructions and interviews about the escapes, from the planning stage right through to the escape itself. The programme-makers also informed the viewers who the participants in the programme were. Through the reconstructions and listening to those involved, the viewer was given a very clear picture of the escapes, including the violence and tension involved. The broadcasts concentrated solely on the escapes. In doing so, the broadcaster was not obliged to deal with the Troubles in the North, nor with the history and activities of the IRA. These programmes concentrated on prison escapes, which were real events. The content of each programme was factual. At no stage during the broadcasts was violence or the activities of the Republicans endorsed or even promoted as submitted by the complainant. The Commission did not consider that the nature and content of the programmes gave rise to the matters of complaint raised by the complainant. These broadcasts treated the subject matter fairly and there was no evidence of gratuitously offensive content or of incitement to commit crime. Also, the subject-matter is not prohibited by Irish law. The complaint made by Col. James Mortell was rejected with reference to Sections 24(2)(a)(impartiality), (b)(taste & decency and law & order) of the Broadcasting Act 2001.

**5.28** *Complaint made by: Focus on Romania  
Ref. No. 53/06*

**Station:** RTÉ Radio 1  
**Programme:** Today with Pat Kenny  
**Date:** 24 February 2006

### Complaint Summary:

Mr. John Mulligan's complaint, submitted on behalf of the Focus on Romania voluntary organisation, under Section 24(2)(a)(impartiality), refers to two interviews on the 'Today with Pat Kenny' programme broadcast on 24 February, 2006. The first interview was with a female journalist. The second interview complained of was with Barry Mulligan, the then Irish Honorary Consul in Romania who also lives in Bucharest. This is the interview that is the core of this complaint. During the course of the interview he made some startlingly incorrect pronouncements about the state of the reform process in Romania's institutions, stating categorically at one point that 'the bad old days' were 'definitely gone'. At no stage did he make clear that his role has now been superseded by the opening of a full embassy in Bucharest, and this added to the damage by appearing that he was speaking in some kind of official capacity. As the NGO at the forefront of the reform process in Romania's institutions, the organisation was naturally very concerned at the inaccuracies. The complainant submits that his organisation knows, given that it is involved in the pilot project on which reforms are to be based, that reform has not yet commenced across any of the institutions in Romania. Pronouncements such as made by this programme do untold damage to the work that Focus on Romania does; it is difficult enough to persuade a government to change their ways, without stories being broadcast to the effect that the problem no longer exists. The peddling of such misinformation does a grave injustice to the tens of thousands of victims who still suffer in Romania's frighteningly overcrowded and under funded institutions.

### Station's Response:

RTÉ submit that the complainant, Mr. John Mulligan, who is Chairman of Focus on Romania, claims that conditions in orphanages in Romania remain extremely unsatisfactory and that the Romanian Government is simply 'hiding' the problem to assuage EU Officials in order to facilitate Romania's entry into the EU. He requests that the programme broadcast an email setting out his organisation's views on the current situation or that a similar amount of airtime be allocated to enable listeners to hear a contrary opinion. The production responsible for the programme considered this request. The programme had already returned to the topic on one occasion when it broadcast an interview with 'Clare', an Irish woman who had adopted two Chinese children and who spoke in a very positive manner about the experience of foreign adoptions. The team decided that a second return to the subject was not warranted in the immediate future. This decision was based on the



view that the original programme had been balanced and that there was no requirement to broadcast a contrary view of conditions in Romania.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. This broadcast dealt mainly with the issue of foreign adoption. In relation to the interview with female journalist, her views on foreign adoption are widely known. The programme-makers were entitled to invite her onto the programme. What is important to the Commission is that the interview was conducted in an impartial manner. In the course of the interview, the presenter challenged and questioned the views and opinions put forward by the interviewee. The Commission also noted that the presenter read out the views of callers about the interview and they were mainly negative. There was no evidence of editorial bias in the piece. The Commission was of the view that the presenter conducted the interview in an impartial manner. Later in the programme Mr. Barry Mulligan appeared on the programme. This interview dealt mainly with the opening of a film entitled 'What Means Motley?' which Mr. Mulligan was involved in. It deals with the story of the bogus Romanian choir that Mr. Mulligan would have dealt with in his role as the Honorary Consul for Ireland to Romania in the late 1990s. Mr. Mulligan spoke about how he ended up in Romania. A part of the interview dealt with what his opinions were on how Romanians are viewed in Ireland, on foreign adoption in Romania and on Romanian Orphanages. The listener was aware that the views expressed were those of the interviewee, based on his experiences living in Romania. The Commission would acknowledge the gravity of the matter of Romanian orphanages. The Commission would also acknowledge that broad statements were made in the course of this interview. However, such issues could not determine the partiality, or otherwise, of the item. The Commission was of the view that the interview was conducted in a fair manner, with no evidence of editorial bias. The presenter questioned the opinions and views of Mr. Barry in an impartial way. On hearing the piece, the tone and content was such that the Members could not construe harm or damage being done by the item to any person or group/organisation.

There was no evidence of editorial bias in this broadcast. The programme dealt with issues of public concern in an impartial manner. The complaint made by Mr. John Mulligan, on behalf of Focus on Romania, was rejected with regard to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

**5.29** *Complaint made by: Mr. Finian Connolly, EPTI  
Ref. No. 60/06*

**Station:** RTÉ TV1  
**Programme:** Prime Time  
**Date:** 14 March 2006

### Complaint Summary:

Mr. Finian Connolly's complaint, made on behalf of EPTI Ltd., under Sections 24(2)(a)(impartiality), (c)(privacy of an individual) and (f)(slander), refers to the section of a broadcast of 'Prime Time' in which there was references to him and EPTI Ltd. The complainant states that he made himself available for a meeting and an interview during the making of the programme. He changed his busy business schedule to facilitate RTÉ and Ms. Clare Murphy, but her attitude, in his opinion, was disrespectful and to a degree intimidating by her attitude over not turning up for the interview and by delaying forwarding to him the list of claims made against EPTI.

When he eventually received the claims a full statement was issued which showed that the claims were unfounded and inaccurate. Despite giving a full detailed statement in writing to answer all the claims the journalist and RTÉ chose to select only statements that suited their programme with the most important parts of the statement being ignored, this being that the students had been reported to the Department of Justice and had been given adequate notice of this by their failure to comply with both college and visa regulations. This would have put a completely different light on the programme and it is my opinion that it was deliberately omitted thereby giving an unfair and inaccurate account of the events. This gave a biased view, which was not in favour of EPTI.

He further states that he resents the intrusion on his civil rights by Ms. Murphy and the RTÉ camera crew entering the premises of EPTI without permission and removing private property and taking it outside of the building to use as a prop. RTÉ and Ms. Murphy had been informed by his legal representative that he would not be available until Friday 3 March and that he was the only one who could answer the questions. However, despite this the camera crew and programme makers chose otherwise, with an approach of couldn't care less about him or his property.

As a result of the airing of the section in relation to EPTI on 'Prime Time' there was an erroneous misrepresentation of the facts. There was not proper allowance on the EPTI side of the story using the documentation sent to RTÉ.

In the broadcast 'Prime Time' referred to the EPTI premises as an office block in Drogheda docklands. In his opinion, there was an inference in this statement which is negative and gives the impression of belittling the premises. Also shown in the broadcast were premises that do not belong to EPTI giving the impression that it was part of the EPTI when in fact it is not. This building shown as yet has not been renovated as has the EPTI building and by showing the next door premises it gave the impression that EPTI were operating from a run down building. This once again gave an inaccurate, negative and biased broadcast with regard to EPTI.

### **Broadcaster's response:**

RTÉ states that EPTI was the subject of part of a report into the treatment of foreign students in Ireland in a broadcast of 'Prime Time'. RTÉ vigorously refutes Mr. Connolly's complaint and stands over the report as accurate, fair and impartial. RTÉ believes that much of Mr. Connolly's complaint refers to the production teams' decision to cancel a background briefing interview. RTÉ wishes to stress that extensive consultation with Mr. Connolly took place by phone and e-mail throughout the pre-production and production process and that ample opportunity was provided to Mr. Connolly and his company to clarify their responses to allegations contained in the report as broadcast. The part of the report in question that has caused Mr. Connolly to complain refers to an account of how two Indian students came to Ireland believing they were to pursue a MBA degree through EPTI which would be validated by an Australian University, the Edith Cowan University of Perth in Western Australia. The report provided an account of how they were treated. A response was sought from representatives of EPTI. Mr. Connolly provided a written response to questions put to him by the production team. These responses were included in the report as broadcast.

The complainant claims that he was unfairly treated by the production team and their decision not to meet him. At no point did Mr. Connolly agree to a broadcast interview. The production team declined to participate in a non-broadcast interview as they believed EPTI had already presented all their defences of the operation and that a further re-iteration of these defences, which could not be broadcast, would serve no purpose. The

'Prime Time' team contacted the EPTI a full two weeks before the item aired to outline all the allegations that would be made against the school. Mr. Connolly did not agree to a broadcast interview and agreed only to an off camera meeting. The reporter, Ms. Clare Murphy, carried out her reporting tasks in a professional manner.

The documentation provided to 'Prime Time' by EPTI did not prove that the claims of the students were unfounded. The production team is in possession of documentation issued to the students by EPTI which supports the allegations presented in the report. The report as broadcast carried EPTI's denials of the claims. The report included at several stages extracts from the statement issued by EPTI in which they denied the charges made by the students. RTÉ believes that the relevant extracts from the EPTI statements responding to the particular points raised by the students were broadcast. It should be noted that Mr. Connolly's complaint refers to a five minute segment of a wider report into the exploitation of foreign students in Ireland and that within the time constraints of the particular part of the report on EPTI the production team were absolutely fair to that company.

Mr. Connolly issued a nine-page detailed statement by e-mail to the production team. With such a detailed response, the production team decided that there would be no benefit in an off-camera meeting with Mr. Connolly. The 'Prime Time' team stressed in extensive communications with EPTI that an interview for broadcast was the preferred option of representing the college's views. This was not agreed to by EPTI. During the two weeks prior to broadcast, the reporter, Ms. Clare Murphy, asked on many occasions both by e-mail and by telephone for EPTI to provide a spokesperson to fully respond to the serious allegations made by the students. This offer was never accepted.

Had Mr. Connolly really wanted to record an interview for inclusion in the report he had ample opportunity to do so. All the issues he raised about his availability, cancelled meetings, etc. are simply obfuscations, designed to hide the fact that Mr. Connolly at no stage ever agreed to participate in the report by way of a filmed interview. In these circumstances, the production team decided to include in the report extracts from Mr. Connolly's statement.

RTÉ believes that the report was at all times fair to EPTI and Mr. Connolly. RTÉ also argues that Mr. Connolly has produced no evidence whatsoever which contradicts the comments made by the Indian students and broadcast in the report.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. This particular 'Prime Time' broadcast concerned Irish education on offer to foreign students. In the introduction it was stated that many overseas students find, *'that course they thought they'd paid for turns out to be not what it seemed'*. The presenters clearly indicated that the report would deal with students that found themselves let down by Irish approved education providers. 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.

A segment of this report included the stories of, and interviews with, two Indian students who believed they had been exploited by EPTI. The presenter explained to the viewer how these students had found the whole process and conducted interviews with them about their experiences. The Commission noted that the programme-makers did use a clip of the EPTI building and its location in the report. They were of the opinion that this footage was accurate, factual and therefore, could not be considered to show unfairness to EPTI. It was footage of the actual location of the college. It was not unfair to include this scene in the report. In relation to the two interviews with the students, the Commission considered whether or not EPTI were given an opportunity to respond to the allegations included in the report. The Commission noted that the viewer was aware from the start that the views being expressed were from the student's perspective only. The issues raised by the Indian students were directly related to EPTI. Therefore, one would expect that EPTI were offered the opportunity to participate in the programme. It was clearly stated by the presenter that the Managing Director of EPTI, Mr. Finian Connolly, had submitted a statement to the programme and that in this statement he disputed the criticisms made by the students. The company strongly refuted the student's claims and stated that they were never enrolled for the Australian MBA Programme in 2004 because they did not have the required level of English.

This was a serious examination of an area of education in Ireland, which concentrated on overseas students who believe they have been treated unfairly. It was a report of public interest and also one of a human-interest nature. The Commission could understand the company's reaction to the item. However, the programme-makers have editorial independence and are entitled to report on issues of their choosing. What is important to the Commission is that they do so in a fair and balanced

manner. The Commission noted that the relevant organisation was offered a right-of-reply and that the programme-maker clearly informed the viewer of EPTI's views on the allegations made by the students.

The Commission considered the complainant's assertion that if RTÉ had reported the fact that EPTI had reported the students for non-attendance it 'would have put a completely different light on the programme'. He claims they omitted this fact deliberately. The Commission was of the opinion that the programme-maker was entitled to make such a decision. The issue being addressed was the fact that the students believed they did not get the course they thought they came to Ireland for. Therefore, it is reasonable to assume that the non-attendance on a different course is not relevant to this issue. The Commission noted that the veracity of facts were argued and challenged by both parties to this complaint. Many points put forward are open to interpretation. What the Commission must determine is the impartiality of the broadcast. The Commission is of the opinion that the substantive issues of this report were presented in an impartial manner. The two Indian students had offers and paid fee deposits for an Australian accredited MBA. While the Commission would acknowledge this was on a conditional basis, the students did arrive in Ireland on student visas. They were subsequently offered a different course. Therefore, the tenet of the piece as presented was correct; the students did not get to study the course they originally had applied and paid a deposit for. It was noted that EPTI did not challenge the issue of the fees paid by the students nor the fact that they had been offered conditional places on the Australian accredited MBA. This segment of the programme treated its subject matter fairly and in an unbiased manner.

The Commission is only in a position to assess broadcast material. Mr. Connolly's assertion that his privacy was invaded does not relate to the broadcast material. As this is not content related, the BCC cannot make a determination on the matter. Also, the BCC has no responsibility to assess his assertions about the professionalism, or otherwise, of RTÉ staff. This is a matter that should be directed to RTÉ Corporate. In relation to the assertion of slander, the Commission noted that at no stage were allegations made directly against the complainant. In the context of the report, the issues under discussion related to the students' experiences at EPTI. There were no allegations made about Mr. Connolly of inaccurate facts or information in relation to him personally or professionally. There was no evidence of an assertion which constituted an attack on his honour or reputation. Therefore, the broadcasting regulation concerning slander does not apply. The

complainant also raises the issue of copyright. It is not within the remit of the BCC to adjudicate on such a matter. The complaint was rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

**5.30** *Complaint made by: Mr. Pat Swords*  
*Ref. No. 65/06*

**Station:** RTÉ Radio 1  
**Programme:** Five Seven Live  
**Date:** 27 March 2006

### Complaint Summary:

Mr. Pat Swords' complaint, under Section 24(2)(a)(impartiality), refers to a report on a cement making company and pollution. The complainant asserts that broadcasting relating to environment, health and safety issues are poorly researched in Ireland, if at all, leading to the situation in which the public is regularly grossly misinformed. RTÉ Radio 1's presentation in this broadcast was a classic example of this genre. Small eco-friendly cement producer EcoCem was being victimised by the established cement companies and the Department of the Environment as it was not being issued with Greenhouse credits, €27 per tonne of CO<sub>2</sub>. In particular, as its cement, unlike other established companies, was essentially CO<sub>2</sub> neutral.

Standard cement clinker is produced by burning lime and as outlined in the broadcast is a very large emitter of CO<sub>2</sub> due to the considerable energy input. So how does EcoCem produce clinker that is essentially CO<sub>2</sub> neutral? Well it doesn't! EcoCem uses ground blast furnace slag which is produced as a by-product of the steel industry. This industry also has huge fuel requirements to produce molten steel and the slag by-product. Additionally, emissions of other compounds from blast furnaces are higher than burning lime in a cement kiln as the long length of the cement kiln acts as a gas cleaning installation. Therefore totally opposite to the programme's presentation it is the production of the blast furnace slag and not the cement clinker production that has the larger environmental impact.

EcoCem's activity in Ireland relates to the importation of blast furnace slag, its grinding and blending into cement products. As was mentioned in the broadcast this is a very low energy input step. What was failed to be mentioned is that as it is of such low energy it is not included in the Emissions Trading Scheme. Therefore, even if the Department of the Environment wanted to allocate them credits they could not. If this story had

been researched it would not have been broadcast in the manner it was. This is unfortunate as the EPA is always available to answer queries under the terms of the Aarhus Convention.

The complainant further states that global warming is a global issue. It does not matter whether the carbon dioxide is released in Germany or Ireland. He would strongly argue that any claims about environmentally superior performance of EcoCem's product in comparison to the 'traditional' method of manufacture can only be assessed in the light of how ground blast furnace slag is produced and the carbon dioxide emissions thereby generated. This carbon dioxide is accounted for in Germany as part of the steel production. RTÉ chose to ignore the international and socio-economic aspects of the Emissions Trading Scheme in favour of simple accounting of Ireland's CO<sub>2</sub> emissions. It was therefore incorrect for the programme to assert that EcoCem was being victimised by the Irish Authorities, as it had not been allocated emissions trading credits.

### Broadcaster's Response:

RTÉ submits that it is difficult to identify any specific claim of breach of impartiality in Mr. Swords' complaint. Essentially he is arguing that the report was inaccurate and therefore, it is reasonable to assume that Mr. Swords believes that the report was unfair to largest manufacturers of cement by 'traditional' methods. The report explained to the listener that traditional cement-manufacturers were large generators of CO<sub>2</sub> but there was an alternative method of production which used a different raw material. A company called EcoCem was using this alternative raw material but issues had arisen in regard to a Government decision about carbon emissions trading.

The report dealt with the Irish Government's decision to break with the model of carbon trading practised elsewhere in Europe in a manner that gave competitive advantage to heavy polluters over a more eco-friendly company. Mr. Swords suggests that the EcoCem product is 'essentially not carbon neutral'. The Emissions Trading Scheme (ETS) in Ireland applies to companies producing large amounts of CO<sub>2</sub> in this country. The 'Ground Blast Furnace Slag' (GBFS) which EcoCem uses is a by-product of the German steel industry. EcoCem imports all its GBFS from Germany where it is a by-product of the Steel industry. The ETS works on a national and not a trans-national basis. Therefore, CO<sub>2</sub> generated in Germany in the production of GBFS is not included in Ireland's carbon bill.

Mr. Swords claims 'emissions from other compounds from blast furnaces are higher than burning lime in cement kilns'. The report was about the cement manufacturing process in Ireland and the carbon bill accruing from it. It was not about the Steel industry in Germany. EcoCem's manufacturing process in Ireland does not produce any Nitrous Oxide or Sulphur Dioxide the other major greenhouse gasses.

Mr. Swords suggests that the report failed to mention that EcoCem is such a small carbon emitter that it is for that reason that it is not included in the ETS. This is incorrect. The report clearly highlighted that the Irish Government has chosen to leave EcoCem out of the ETS as administered in Ireland precisely because it is a low CO<sub>2</sub> emitter. Companies manufacturing an identical product in other European countries have been included in their national ETS as a reward for being environmentally friendly and as an incentive to big emitters to reduce greenhouse gas pollution.

RTÉ believes this report was well researched. Its intention was to highlight the importance of bringing Ireland's carbon emissions under control, an agenda the EPA is keen to address. The cement industry generates 4 million tonnes of carbon annually. EcoCem has 7% market share in this country. If it was manufactured in the same way as its competitors it would generate 300,000 tonnes of carbon. Because it doesn't it only generates 20,000 tonnes. The allocation of Carbon Credits as directed by the Government under NAP2 (National Allocation Plan) awards all credits to heavy polluters.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that the introduction to the broadcast informed the listener that the next item was an example of the 'problems that Irish industries and the Government have in adjusting to life under the Kyoto Protocol'. In particular, the programme dealt with the issue of greenhouse gas emissions, the cement industry and the government's allocation policy on greenhouse credits. The issue was explored and discussed in an Irish context only. It dealt with the implementation of policy by the Irish Government. At the time a Cabinet decision was due on the allocation of greenhouse credits. The programme-maker is entitled to decide on the approach to take when covering an issue. In this particular broadcast, the programme-makers chose to cover the issue on a national basis. While the Commission would acknowledge that

environmental issues are indeed global issues, to explore the implementation of Irish policy on a national basis is admissible, legitimate and of public interest. Also, given the pending Cabinet decision, it was timely and relevant. What is important to the Commission is that the broadcaster covered the topic in a fair and balanced manner. There was no evidence of editorial bias in this piece. The programme presented the material in a factual nature and the interviews were conducted in an objective and impartial manner. It was also noted that the piece dealt specifically with greenhouse gas emissions. It was not a discussion or exploration of the sources of the raw materials to make cement. The Commission would agree with the complainant that environmental issues are complex. However, the programme-makers legitimately looked at Ireland's greenhouse gas emissions only and did so in an impartial manner. That the report was not focussed on a European or global scale does not determine that it is unfair. This report was fair, and looked impartially at the allocation/non-allocation of credits in respect of EcoCem compared to larger cement producers in Ireland, under the application of Ireland's policy on greenhouse gas emissions. Therefore, the Commission rejected Mr. Pat Swords' complaint under Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

**5.31** *Complaint made by: Mr. Michael Lennon  
Ref. No. 89/06*

**Station:** RTÉ Radio 1  
**Programme:** This Week  
**Date:** 26 March 2006

### Complaint Summary:

Mr. Lennon's complaint, under Section 24(2)(a)(impartiality), refers to comments made by the presenter, Mr. Barry, during a broadcast of 'This Week' which Mr. Lennon found to be offensive. In the course of the interview, the proposals of the Minister for Social and Family Affairs relating to the One Parent Family Payment was discussed. Mr. Barry made a particular statement, in which he said that this would mean that there would be no need for these 'Inspector Clouseaus' within the Department. While not working for that Department, Mr. Lennon took offence at the attitude of Mr. Barry as evidenced by his comment. The Inspector Clouseau character is a bumbling, incompetent, stupid and ineffectual person. By his comment, Mr. Barry was implying that Social Welfare Inspectors, particularly those investigating applications for the One Parent Family Payment were bumbling incompetent, stupid

and ineffectual persons of no great use to the State or its services. In addition, it appears to Mr. Lennon that by his comments, Mr. Barry was implying that there was no need for the Inspectors and that he was condoning the fraudulent application for the receipt of payments from the Department of Social and Family Affairs. It appears from his comments that Mr. Barry has no idea of the work undertaken by the Inspectors and is ill informed on the subject.

### Station's Response:

RTÉ submits that the interview which led to this complaint was between Gerald Barry and Tony Fahey of the ESRI. It was by all standards a moderate and measured interview. The reference to 'Inspector Clouseau' was in the context of a decision taken by the government to end the process of checking up on the possible co-habiting arrangements of people claiming single parent allowances. On listening to the programme, you will not hear the programme presenter use the term in an offensive manner. The interviewer was at all times objective and impartial.

As stated, the use of the term 'Inspector Clouseau' was a reference to the fact that the Department of Social and Family Affairs decided to discontinue using their inspectors to check up on the co-habiting arrangements of people claiming single parent allowances. With the change in policy of the Minister these inspectors will no longer be required for this function. In these circumstances the use of the term – which suggests irrelevant investigation – is not inappropriate.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The discussion looked at the proposed changes to procedures for lone parent allowance payments. One of these changes was the proposal to end the procedure of checking up on people claiming the allowance to see if they were in relationships. The presenter posed the question; 'one other trap within the old system relates to whether or not one spouse is living with the other.....kind of Inspector Clouseaus going around from the department checking up on people to see if they were actually in relationships and they said they weren't....it would appear that at last that is going to end too?' Mr. Fahy responded by saying that this was a positive move as it removed the 'disincentive against joint parenthood'. Under the new proposal, parents in low income families would be entitled to a parental allowance, irrespective of their marital or co-

habiting status. On hearing the interview it was evident that the presenter's questions related directly to the proposed changes. In context, the question complained of was based on the procedure itself and its values, as opposed to the actual Inspectors or their work. This was a balanced and fair discussion which explored the issues in an informative manner. There was no evidence of unfairness in this broadcast. The Commission was also of the view that there was no evidence of the inferences as submitted in the complaint; that the presenter was disparaging of the work of Inspectors or that he endorsed fraud. Mr. Barry questioned a procedure and its inherent principles in an impartial manner. The complaint was rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

**5.32** *Complaint made by: Ms. Roseleen Harlin  
Ref. No. 99/06*

**Station:** LM FM  
**Programme:** Loose Talk  
**Date:** 24 March 2006

### Complaint Summary:

Ms. Harlin's complaint, on behalf of the HSE in the North Eastern Area, under Section 24(2)(a)(impartiality) and (f)(slander), refers to an interview on LM FM between the presenter, Mr. Michael Reade, Ms. Mary O'Hara and Ms. Dorothy Biddulph both speaking on behalf of the North-east Autism Support Group on the topic of social workers.

Ms. Harlin states that during the interview, the interviewer made statements which were factually incorrect e.g. 'I know that people remember that when you did complain publicly about lack of services they came and took your children'. The language used was defamatory e.g. 'I know but what I meant was the reason the Gardaí came to your house was because they were asked by the social workers for support in abducting your children'. There was a complete lack of impartiality on the part of the interviewer during the course of the interview. Biased and partial opinions were presented as matter of fact. She further states the Child Care Act, 1991 provides that the only circumstances in which a child can be taken into care are: - 1) when the parents/guardians request it ; 2) where it appears that a child requires care or protection which he is unlikely to receive unless a court makes a care order or a supervision order in respect of him, it shall be the duty of the health executive to make application for a care order or a supervision order, as it thinks fit.

The HSE is gravely concerned, that the actions of professional clinicians, in pursuance of a lawful order of the court should be described as 'abduction'. The statement that HSE staff and indeed members of An Garda Síochána engaged in a criminal act is slanderous.

### Station's Response:

LM FM state it is the law that one cannot interpret a statement in isolation and the specific statement in respect of which a complaint is made must be read in conjunction with the broadcast as a whole. When one does that, the impression conveyed to the listener, is not factually incorrect. In their opinion, the public's perception or memory of this story, one year later, is that the HSE actions were prompted because the couple complained publicly about the service the HSE was providing to them. There was substantial reporting on this issue in the media. From these reports, the comments were critical of the HSE and certainly built the perception amongst the public that the HSE acted in a retaliatory manner. They contend that at the time of the interview, people's memory of this incident was that the couple complained publicly and the HSE came and took the children into care.

Following the broadcast, LM FM acknowledged to the Complainant that using the term "abducted" was regrettable and unfortunate. It was said in the context of the description of the harrowing effects on the children arising from the events of the night of March 4 2005. The interviewer had intended to say that, from the O'Hara children's perspective, it must have appeared as if they were being abducted. They accept that the use of this word was an error on their part, albeit an unintentional one. LM FM contends that no reasonable person listening to this interview would gain the impression that either the Garda or the Health Board actually abducted these children even though this term was used once in the course of the interview.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. At the outset of the discussion, the presenter referred to an article in the Irish Times that day. This article was about a new Authority being set up by the Government whose work would include the development and monitoring of the Irish health care system and also, would involve dealing with complaints concerning employees of health care services. On foot of the proposals, two Members of the N.E. Autism Support Group were invited on-air to discuss the same. This

included discussing with one of the callers her and her family's experiences, including the decision to serve her with an emergency care order.

The Commission noted that the listener was informed of the background of the two interviewees at the beginning of the discussion and it was evident they would have a personal interest. The discussion explored their views and opinions on the proposed Authority from their experiences. The Commission is of the opinion that such a discussion was of public and human-interest and concerned an emotive issue. The broadcaster is required to handle such issue with due diligence and care to ensure fairness and objectivity. The Commission acknowledges that the use of the word 'abducted' by the presenter was inappropriate and ill-judged. The Commission also acknowledges the complainant's concern about its use. When the presenter used such words, the interviewee responded by stating 'Well no.... because they [Gardaí] got an emergency care order, it's part of procedure actually to bring a Garda along, as part of the procedure.' The words used by the presenter were unfortunate, but in the context of the discussion, the Commission is of opinion that they could not form the basis for a finding of bias.

It was evident that the interviewee's story was based on negative experiences. The interviewee had been served with an emergency care order, which resulted in the removal of her children from their home. The children were subsequently returned on a challenge to the emergency care order through the Irish Court system. The presenter was free to explore the story and the interviewee was entitled to put forward her views on the proposed new Authority based on her past and on-going experiences.

On hearing the discussion, the Commission was of the view that the interviewer posed questions to clarify what had actually happened, and to ascertain the current situation in which her family found itself. He sought to explore a true-life experience from the perspective of a mother of a family who has children requiring special needs care, and a family that had been served with an emergency care order. While the Commission can understand the concerns of the complainant, the interviewee had a right to tell her story, whether negative or positive. The fact that the interviewee believes her experiences were not positive, does not establish bias. The Commission was of the opinion when the broadcast is taken as a whole, the subject matter was dealt with in a fair and balanced manner.

This interview was a response to, and based on, the establishment of a new Health Authority and its functions from the perspective of a woman who deals on a personal basis with the Health Care Services. It was not a discussion on social workers per se, but rather on the health care system and accountability. It was her story, a human-interest discussion, which was also of great of public interest. The Commission concluded that in the overall context of the broadcast, there was insufficient evidence of bias or partiality on the part of the broadcaster. The Commission rejected the complaint with regard to Section 24(2)(a)(impartiality) of the Broadcasting Act, 2001. However, the Commission would note that the broadcaster should take greater care with the manner in which he frames his questions.

**5.33** *Complaint made by: Mr. Martin Long  
Ref. No. 104/06*

**Station:** RTÉ TV1  
**Programme:** Prime Time  
**Date:** 11 April 2006

### Complaint Summary:

Mr. Long's complaint, under Section 24(2)(a)(impartiality), (b)(law & order, taste & decency) and (f)(slander), relates to the programme 'Prime Time'. He states that during a studio discussion on privacy law, Mr. Gerard Colleran, Editor of The Irish Daily Star said "We had too much privacy in this Country, we should have had less privacy in respect of clerical abuse of children, when they were screaming in every presbytery all over the country". These words are false, slanderous and amount to an allegation against every parish-based priest in the country. A presbytery is both a place of work and home for priests and the running of presbyteries is very much reliant on the ongoing support of lay people from the parish. The media has a special responsibility and while it has, in the past, undertaken a commendable role in highlighting the awfulness of child abuse, media representatives ought not to use this issue to distress those innocent of any wrong doing. He refers to the overwhelming number of priests in good standing in Ireland and whose spiritual and pastoral guidance is so important to the lay Catholic faithful.

Many people – both lay and religious – have been hurt by Mr. Colleran's remarks. The forum for these remarks and the status of the commentator must also be considered. 'Prime Time' is broadcast at peak viewing times and is RTÉ's flagship current affairs programme, while the Irish Daily Star is the second most popular read

daily newspaper in the country (2005 JNLR survey by Lansdowne Market Research) and so the utterances of its editor cannot be dismissed lightly.

### Station's Response:

RTÉ states that the 'Prime Time' programme dealt with the issue of the proposed introduction of laws to protect citizens from media invasion of their privacy. The programme opened with a report detailing some of the issues around this topic. This was followed by a short studio interview with Laura Bermingham a former model who had sued a newspaper for invasion of her privacy. At this point, the programme presenter, Miriam O'Callaghan, interviewed Ger Colleran, Editor of the Star newspaper, and Dr. Gerald Kean a solicitor on the pros and cons of introducing privacy legislation. In the course of the interview, Mr. Colleran provided a robust defence of his newspaper's right to pursue matters which some would regard as an invasion of privacy. Mr. Colleran said:

*We will find a way around a privacy Act if it seeks to control us to the extent that we can't put into the public domain stories which should be there in the first place. We've had too much privacy in this country. We should have had less privacy in respect of clerical abuse of children when they were screaming in every presbytery all over the country. We should have had less concern about privacy when Haughey was ripping off the country spending public funds entertaining his mistress and we should have less concern for privacy in regard to the Donegal Gardaí as they abused from one end of the country to the other.*

RTÉ fully accepts that the remark made by Mr. Colleran is inaccurate, that his remark was a considerable over-statement of the volume of clerical abuse of children. However, it is RTÉ's view that the remark was not particularly germane to the topic under discussion and had merely been put forward as one of three examples where privacy laws had interfered with the reporting of behaviour which, had they been brought into the public domain, would have been in the public interest. Mr. Colleran is entitled to freedom of speech and is free to express his views. During the course of the live debate (as opposed to scripted reporting) contributors frequently over-state a case. Mr. Colleran's remark was not endorsed by RTÉ. The presenter correctly chose to move the topic back to the central issue under discussion, which was the argument for the introduction of privacy laws. The Catholic Church has many opportunities to counter claims made by Mr. Colleran. Viewers of the programme would have known that abuse did not take place in every presbytery in Ireland



and that the majority of priests had not betrayed the trust of vulnerable people in their care.

RTÉ regrets any hurt which viewers, both lay and religious, may have felt as a result of the broadcast. However, they believe that viewers would have understood the nature of live debate and would not have taken literally the example provided by Mr. Colleran and would have understood the point Mr. Colleran was making, namely that privacy laws might inhibit the exposure of wrong-doing.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The topic under discussion was the proposed new reforms to Irish privacy legislation and the implications of such reform for the media. The Commission noted that the panellist did make the statement as submitted in the complaint. The Commission also noted that it was one example of three that he stated. All the examples were said in an exaggerated manner. In the overall context of the discussion, it was a general comment, made to highlight an opinion. The Commission was of the view that it was made to convey, and endorse his stance, on the issue of privacy laws and there was no evidence of intent to cause offence.

The Commission would acknowledge that the issue of child abuse is a serious and sensitive issue and broadcasters should deal with such issues in a fair and balanced manner. However, the statement complained of was made during a live discussion. The presenter could not have foreseen the comment. Once the statement was made, there was no further reference to it by the presenter or any of the panellists. Also, on hearing the piece the tone and content was such that the Members could not discern any harm being done to any individual or group. It was evident to the listener that the panellist spoke in an exaggerated manner. His opinions were clear and he expressed them fervently. The Commission was of the opinion that he never meant to cause offence. In the context of the whole discussion, this broadcast was fair. The presenter questioned and challenged the views of the panellists in a fair and impartial manner. There was no evidence of editorial bias in this broadcast.

In relation to the assertion of slander, the Commission noted that at no stage were allegations made directly against the complainant, or an assertion made, which constituted an attack on the complainant's honour or reputation. Therefore, the broadcasting regulation concerning slander does not apply. The complainant also raises the issue of law and order. There was no evidence of any content which was likely to promote, or incite to, crime in this broadcast. The complaint was rejected with reference to Sections 24(2)(a)(impartiality), (b)(law & order, taste & decency (pursuant to RTÉ's 'Programme-Makers' Guidelines') of the Broadcasting Act 2001.

**5.34 & 5.35** *Complaints made by:*  
*An Doctúr Dónall A. O Ceallaigh*  
*Refs: 110/06 & 111/06*

**Station:** RTÉ Radio 1  
**Programme:** Morning Ireland One O'Clock  
**Date:** 09 May 2006

**Station:** RTÉ TV1  
**Programme:** One O'Clock News  
**Date:** 09 May 2006

In assessing these complaints, the Commission determined that they would be published in title only. The Commission was of the opinion that the sensitivity of the subject matter of the complaints overrides the public interest in making the complaint decisions publicly available.

**5.36** *Complaint made by: Mr. Andrew McGrath*  
*Ref. No. 118/06*

**Station:** RTÉ TV1  
**Programme:** Today with Pat Kenny  
**Date:** 10 May 2006

### Complaint Summary:

Mr. McGrath's complaint, under Section 24 (2)(a)(impartiality), refers to an interview with Mr. John Geddes a former member of the SAS. Mr. McGrath believes that by stating that this man is a former member of the SAS and the Parachute Regiment of the British army, without engaging in any kind of questioning of the records of those organisations, Mr. Kenny was quite clearly demonstrating his approval of their activities as well as the killings which this person freely admitted were part of his "work" as a mercenary in Iraq. Mr. McGrath believes that this is in breach of the

Broadcasting Act under impartiality. He further believes that it is not acceptable for Mr. Kenny to interview in a favourable manner, a mercenary and former member of the SAS and Parachute Regiment. These agencies, he claims, are responsible for numerous atrocities in this country and around the world, of which the Bloody Sunday killings are just one example. Mr. Kenny did not ask his guest about the record of the SAS or the Parachute Regiment. RTÉ made no attempt whatsoever to relate to the wider issues involved. This could be done without any question of expressing personal opinions or defending any particular position with regard to these issues. However, RTÉ chose not to do so and indeed chose to include nothing that could be seen as questioning or raising issues about the activities of Mr. Geddes and his colleagues. Instead it chose to normalize the activities described, even though they are anything but normal or unquestionable.

### Station's Response:

RTÉ submits that Mr. John Geddes, the author of a book, is one of scores of authors invited onto radio programmes and interviewed about their latest books. Neither the invitation to appear nor the tone of the interview imply in any way that the broadcaster endorses the views of the author. It is the interviewer's job to conduct an interesting interview which elicits the maximum amount of useful information for the listener. Mr. Geddes' book is an account of 30,000 private military contractors who are working in the security industry in Iraq today. He begins the interview by describing his role during an attempted ambush of a television crew in Iraq that he was protecting. He went on to discuss the reasons why he joined the army, his time as a soldier in Northern Ireland and finally the move from the army to a mercenary role in Iraq. RTÉ reject Mr. McGrath's claim that Pat Kenny demonstrated *his approval of their (former soldiers) activities as well as the killings*. RTÉ state that this is *simply* untrue. Mr. McGrath appears to be arguing that unless RTÉ engages *in questioning* there is somehow an endorsement of the author's views. There was no expression of the views of either the presenter or RTÉ in relation to the Iraq conflict or indeed the role of Private Military Contractors in Iraq.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that the issue being explored in this discussion was that of the experience of a Private Military Contractor (PMC) in Iraq. At the start of the piece, the presenter set the context for the

forthcoming discussion and explained that the person he was about to interview had published a book about his experiences in such a role. The subsequent discussion explored the experiences of the interviewee.

The questions posed by the presenter sought to elicit information on what such a role entailed and what such a life was like. The Commission was of the opinion that the subject matter was of public interest and that the broadcaster was entitled to deal with, and explore, such material. What is important to the Commission is that the broadcaster did so in a balanced manner. In the course of the discussion, the presenter questioned and delved into the interviewee's role as a PMC in a fair and impartial manner. The whole tenor of the piece was to provide the listener with a sense of the life of a PMC. It was an informative and balanced discussion.

The Commission noted that the interviewee's background was discussed, which included references to his work in the SAS and the Parachute Regiment. However, such references were made in the context of how he came to be a PMC, which was the subject matter under discussion. The Commission was of the opinion that the interview was conducted in a fair and balanced manner, with no evidence of editorial bias. The presenter legitimately and fairly explored the life of a Private Military Contractor. The complaint was rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

**5.37** *Complaint made by: Mr. Brian Rothery*  
*Ref No. 122.06*

**Station:** RTÉ TV1  
**Programme:** Chain Reactions  
**Date:** 25 May 2006

### Complaint Summary:

Mr. Rothery's complaint, under Sections 24(2)(a)(impartiality), (b)(law & order), (c)(privacy of an individual) and (f)(slander), refers to a documentary that looked at an investigation carried out by the US Postal Service into a website called Landslide which sold images of child pornography and the subsequent operation in Ireland that led to the arrest and conviction of several people. Mr. Rothery states that despite the original Landslide story being unravelled over the past year and that unravelling appearing in many media outlets including website and discussion forums, RTÉ ignored this critically important information. By not using any such sources, RTÉ gave a one sided view that

originated in Dallas and also ignored the fact that many of the claims by Dallas police and prosecutors, have since fallen apart. The result was a programme that was false, inflammatory and an incitement to hatred. Mr. Rothery also believes that showing film of certain well known individuals who were raided under the original operations, at a time when this new information is available, appears to be a particular malicious and slanderous, if not reckless, act.

Mr. Rothery claims that the programme repeated one of the main deceptions, which originated from the original Landslide story in Dallas and which was used to mount Operation Amethyst in Ireland and others in the UK and Canada. This was the claim that there was a banner that said 'Click Here, Child Porn' on the Landslide website. It has since been established by a team of activists working in the UK and Ireland, that there was no such banner. A CBC team that visited both Dallas and Ireland also established that fact. The RTÉ programme showed the invented banner several times in a most inflammatory way. Mr. Rothery also states that many individuals raided in these operations are now seen to have been the victims of credit card fraud; that virtual all of the Landslide porn was adult porn and that lies were told by Dallas authorities which were knowingly repeated in the UK and Ireland. Also missing from the programme is the by now well known fact, that official complaints against senior UK police that they knowingly used deceptions, are currently being investigated in the UK. A class action is being planned by individuals who believe that they were wrongly raided or convicted.

Mr. Rothery believes RTÉ has through this programme, breached several of the Acts including the Broadcasting Act 2001.

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

RTÉ submits that this documentary dealt with a police investigation into internet child pornography that started in the United States and led ultimately to the arrest and conviction of people in Ireland on charges of child pornography. *Chain Reactions* is a series of modern history documentaries which take the viewer from specific starting points through a series of consequential, coincidental, accidental and surprising events to reveal the hidden links between the characters and the events that have influenced change or had a major impact or effect in and over Ireland during the last 30 years. The series is not, nor does it pretend to be, an in-depth analysis nor investigation of any one particular event in itself but rather a series that chronicles how one event, at a given time in our recent history started a

chain of events which impacted on Ireland or how we view this country today. The programme was not an analysis or investigation of internet child pornography. Rather the programme looked at Operation Avalanche, an investigation carried out by the US Postal Service (and other US agencies) into a website called Landslide which sold images of child porn and a subsequent police investigation called Operation Amethyst, which led ultimately to the arrest and conviction of many people for the possession of such material.

RTÉ further states that the production team's research was extremely thorough. They were fully aware that an element of controversy had arisen out of a statement made by Law Enforcement Agencies in the US relating to Landslide. This controversy has no relevance to the story, nor to date has it impacted in any way shape or form on the convictions secured through the Irish Courts referred to within the programme.

RTÉ states that the contributors to the programme were all highly respected in their professional fields. Some had first hand knowledge or experience of a particular event; others were in a position to contextualise these events within the parameters of the story. RTÉ does not accept that any of the statements referred to by the complainant were untrue, exaggerated or excessive, nor does RTÉ accept that the programme was false, inflammatory or incited to hatred in any way.

### **Decision of the Commission:**

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that it was evident from the commencement of the programme that the substantive issue was how a chain of events, coincidences, would result in a certain outcome in Ireland. This was not an analysis of child pornography or methods used in the investigations in America or the UK. The presenter's introduction included the statement 'so much of our lives is decided by chance and coincidences'. The programme then chronologically traced through the chain, the various coincidences. The chain started in Sri Lanka in 1997, with the credit card spending habits of a Government Official and ended in the Irish Courts, with a number of people being prosecuted under the 1998 Child Trafficking and Pornography Act. It was explained to the viewer that to prosecute individuals under this Act, you had to prove that the person 'had actually accessed it [child pornography], had actually downloaded the child pornography and still had that information on a system several years later'.

This programme was not an investigation into the various operations conducted in the UK or America and nor did it purport to be. As stated in the programme it was a look at 'the chain of events which had started in Sri Lanka and fizzled out in Dallas, was re-ignited by some diligent Postmen and had reached Ireland after a chance conversation between friends in Interpol and now by the good fortune of a vital piece of legislation, it was about to end up in the Irish Courts'. The programme-makers made the editorial decision to look at the events from an Irish perspective. They were perfectly entitled to do so. The fact the complainant asserts that issues have arisen with how operations were conducted in the UK and the USA is not relevant to this broadcast. The programme did not analyse the operations outside of Ireland. This was a programme made from an Irish perspective, about a chain of events that had a major impact here. The programme was presented in a fair manner. There was no evidence of incitement to hatred in this broadcast. With reference to privacy and slander, the complainant was not mentioned or featured in the broadcast, therefore these categories do not apply to the complaint as submitted.

This programme set out to look at what led to the convictions of people here in Ireland on child trafficking and pornography charges. It looked at how a set of events were connected in an Irish context. It did so, in what the Commission considered an impartial and responsible manner. This complaint was rejected with regard to Sections 24(2)(a)(impartiality) and (b)(law & order) of the Broadcasting Act, 2001.

**5.38** *Complaint made by: Mr. J.P. O'Brien*  
*Ref. No. 126/06*

**Station:** RTÉ Radio 1  
**Programme:** Tonight with Vincent Browne  
**Date:** 24 May 2006

### Complaint Summary:

Mr. O'Brien's complaint, submitted under Section 24(2)(a)(impartiality), concerns a discussion on the Commission to Investigate into Child Abuse during a broadcast of 'Tonight with Vincent Browne' on 24 May 2006. The complainant submits that as a matter of public concern, it is right and proper that such a discussion should take place. However, the discussion should be conducted in an impartial and balanced manner. While he has a number of issues with the programme, his main complaint concerns the bias and lack of objectivity and fairness displayed by

Vincent Browne, the presenter. He uttered statements throughout the piece that were an expression of his own opinions. While playing the devil's advocate is an acceptable interviewing style, he believes that the interviewer in both tone and content persisted with statements and allegations in a partial manner. He believes the following demonstrates that the subject matter was dealt with in an unfair and partial way.

He submits that David Quinn was the only panellist who attempted to put forward the point of view of the Religious Congregations in Ireland. He was constantly harried and mocked by the presenter. Following a reference by another speaker to a 'serious abusive institution' the presenter turned to David Quinn and asked, '*are unseriously abusive institutions ok David in your view?*'

The complainant asserts that Mr. Quinn was taken aback by this *loaded question* and complained on air that the presenter was not interested in a reasoned, logical or balanced debate. He complained that the presenter throughout the programme was only interested in lynch mobbery. This was a serious indictment of the presenter's impartiality and objectivity by a member of his own journalistic profession.

Included in the discussion was a misrepresentation of Brother David Gibson's comments to the Commission by both the presenter and Ms. Raferty. They went unchallenged and therefore, uncorrected.

After describing the Religious Congregations' position as '*sick*', '*perverse*' and '*psychotic*', the presenter ended the programme by quoting on air (without qualification) a text message from an unnamed listener; '*Christian Brothers is an inept term for monsters, sadists, perverts and crackpots...*'.

This is a highly inflammatory, defamatory and slanderous remark which is injurious to the honour and reputation of the vast majority of Christian Brothers.

The programme broadcast on 24 May 2006, represents a serious and flagrant breach by RTÉ of Section 24(2)(a) of the Broadcasting Act 2001.

### Station's Response:

RTÉ state that the programme that has led to this complaint took as its topic the Commission investigating claims of child abuse in institutions. The contributors to the programme were Mary Raferty, television producer and newspaper columnist and David Quinn, columnist on religious issues. A wider perspective was given on a

telephone line by David Cozzens, an American Author who has written about the Catholic Church's reaction in the USA to claims of institutional abuse. The programme opened with a discussion about the claim that some former inmates of institutions were motivated by the possibility of receiving monetary compensation when making claims of abuse. The programme presenter put the point that those in authority in religious orders which had responsibility for institutions for young people should simply 'shut up' and acknowledge their Orders' wrong doings rather than undermining some of the claims made against them. David Cozzens confirmed a similar pattern of response to such claims in the USA.

At this point, the programme went to a recorded interview with a Mr. Ron McCartan who had spent 13 years in institutional care in two institutions, Rathdrum and Artane. Mr. McCartan described how in his first day in Artane he was beaten for simply not responding to an arbitrary name given to him by a Brother who had told him that henceforth he would not be known by his real name. Mr. McCartan described his period in institutional care as dominated by hunger, lack of attention and love. The programme then went on to look at evidence which has emerged from archives that the Department of Justice was aware in the 1930s and 40s of serious child abuse of children by individual members of religious orders. The fear of 'giving scandal' outweighed the welfare of the victims and the abuses were not dealt with in an adequate manner. Re-enactments of extracts from the Commission of Inquiry were included at this point of the programme and were followed by a discussion between the presenter and contributors on the issue of placing the reputation of the institution above the rights of the individual. The programme concluded with extracts from various e-mails and comments from listeners. Mr. O'Brien has taken umbrage at a listener's comments being broadcast. The strongly worded expression of disgust at the behaviour of the Christian Brothers towards children in their care was legitimate as it reflected the honest response of a listener to what was heard in the programme. RTÉ accepts that the listener's comments were excessive and generalised in an unfair manner about the Christian Brothers Order, but that listeners would have been aware that they were hearing the anger of a listener outraged at what he had heard in the programme from former inmates of institutions.

It is RTÉ's view that in a programme where compelling evidence of serious abuse of young people in the care of religious orders is broadcast a presenter is entitled to express indignation and a sense of outrage on behalf of listeners. In the particular programme in all cases

the outrage expressed by Mr. Browne was answered by Mr. Quinn who was always afforded the opportunity of responding to the presenter's sense of outrage.

This broadcast was objective and fair. In the context of the manifest evidence of cruelty and abuse the expressions of anger voiced by the programme presenter were acceptable and particularly, as at all times a contributor sympathetic to the orders was able to respond fully to the presenter's remarks.

### **Decision of the Commission:**

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The introduction to the programme informed listeners that the discussion would cover the proceedings of the Child Abuse Commission, which would include the allegations of child abuse in St. Joseph's Industrial School in Tralee. Following this the panel members were introduced; Mary Raftery, journalist; Fergus Sweeney, programme producer, who interviewed several people in connection with this issue; Donald Cozzens, an American priest and author of a book called 'A Sacred Silence - Denial and Crisis in the Church'; and David Quinn, journalist. In assessing this complaint, the Commission was cognisant that the subject matter is an emotive one. They also noted that the occurrence of child abuse has been well-documented, and accepted, in the public domain. This includes the acknowledgement by the State in establishing a Commission to investigate such abuse. This programme chose to discuss the issues of a state enquiry into child abuse. This is a legitimate editorial decision to make and also, it is a topic of public, and human, interest. Given the weight of evidence in the public domain, a discussion on the issue of child abuse in Ireland is likely to be negative in nature. However, this does not establish bias. What is important to the Commission is that the programme dealt with the subject matter in a fair and balanced manner. In this regard, the Commission must consider the broadcast as a whole; the contributions of all the programme participants must be included in such an assessment. On listening to this particular broadcast, the Commission was of the opinion that the panel discussion was balanced.

The format of the programme was such that views were challenged and questioned, whether they were put forward by the presenter or panel members. It was a robust debate, in the well-known style of the presenter. There was no evidence of editorial bias in this broadcast. The rhetoric of the programme, given the subject matter,

was typical of the type of debate the panellists would expect. The Commission was of the opinion when the broadcast is taken as a whole, the subject matter was treated fairly.

In relation to the issue of the text message read out by the presenter at the end of the programme, the Commission notes that the broadcaster has acknowledged that it 'accepts that the listener's comments were excessive and generalised in an unfair manner'. In the opinion of the Commission, taken in the overall context of the programme, this comment was not determinative of bias or partiality on the part of the broadcaster. However, the Commission acknowledges that the wording of the text was somewhat disproportionate. We would ask that the broadcaster take greater editorial care with text messages in the future.

The complaint was rejected with regard to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

**5.39** *Complaint made by: Mr. David Stanley*  
*Ref. No. 128/06*

**Station:** RTÉ TV1  
**Programme:** Chain Reactions  
**Date:** 25 May 2006

### Complaint Summary:

Mr. Stanley's complaint, submitted under Sections 24(2)(a)(impartiality), (b)(law & order), (c)(privacy) and (f)(slander) of the Broadcasting Act 2001, concerns a broadcast of the series *Chain Reactions* on 25 May 2006. The complainant submits that what amounted to a fisherman's tail was presented by way of documentary as if truthful facts were being presented. The broadcast even included a text banner stating that this was RTÉ factual; such was not the case.

- It has now been conceded that American law enforcement had modified the data.
- The Irish media have already broadcast the fact that prejudicial evidence has been withheld for the defence and the public and US testimony has already been proven false.
- The presenter, told a story, substantially a false one, with significant implications, as he made false incriminating statements.

- The complainant could find no evidence of an attempt to provide an impartial or accurate broadcast, indeed considerable evidence was on display that the opposite was true. It was evident that for the sake of sensationalism, facts were ignored, blatant falsehoods corroborated and some of the report was manufactured and materially at odds with any previous statements.

The presenter started with contrasting the assassination of J.F. Kennedy with the possibility of Landslide not having being discovered.

The broadcast was presented as a true story. Participants had a vested interest. The complainant would allege that the broadcast was a fraud. In view of the consequences of the reporting which had such disregard for the truth, he would be concerned for the safety of the public were those involved in the production of this broadcast allowed to continue in employment whilst investigations are conducted. Clearly issues arise here beyond the scope of the BCC, and it may be appropriate to refer matters for criminal investigation. Suffice to say, Operation Amethyst or the documentary, would not stand up against a genuine public enquiry.

### Station's Response:

RTÉ state that each programme in the series *Chain Reactions* follows a chain of events, linking what might appear to be disparate matters and asking the question 'what if something hadn't happened?' The particular episode that has led to this complaint dealt with a police investigation into internet child pornography that started in the United States of America and led ultimately to arrest and conviction of people in Ireland on charges of possession of child pornography.

The broadcaster further states that in the complainant's lengthy submission to the BCC, he claims that the 'contributors to the programme were almost exclusively vested commercial interests' and that much of the programme was given over to false statements and involved 'wilful deception'. These are extremely strong allegations. It is RTÉ's view that it would be impossible for the BCC to investigate Mr. Stanley's claims which are essentially about a police investigation rather than a television programme.

RTÉ's view is that the programme was factually accurate, impartial and objective. Mr. Stanley appears to have the view that the whole investigation was somehow a conspiracy, which has subsequently been exposed. RTÉ has no reason to believe these assertions and would

point to the fact that many convictions have taken place in various countries throughout the world and as far as RTÉ is aware, none of these have been over-turned.

*Chain Reactions* is a series of modern history documentaries which take the viewer from specific starting points through a series of consequential, coincidental, accidental and surprising events...to reveal the hidden links between the characters and the events that have influenced change or had a major impact or effect in and over Ireland during the last 30 years. The series is not, nor does it pretend to be, an in-depth analysis nor investigation of any one particular event in itself but rather a series that chronicles how one event, at a given time in our recent history started a chain of events which impacted on Ireland or how we view this country today.

This particular broadcast was not an analysis or investigation of internet child pornography. Rather the programme looked at Operation Avalanche, an investigation carried out by the US Postal Service (and other United States' agencies) into a website called Landslide which sold images of child pornography and a subsequent police investigation, called Operation Amethyst, which ultimately led to the arrest and conviction of many people for possession of child pornography.

RTÉ stands over the account of events broadcast in the programme as accurate and impartial. Among the facts stated in the programme are the following:

- A website called Landslide did exist.
- It was set-up and operated by the Reedys, a couple based in Forthworth, Texas.
- It was a gateway to both adult and child pornography.
- Landslide was raided by US Law Enforcement agencies, lead by US Postal Service Agents.
- As a result of that raid an extensive database was secured that included details pertaining to a number of individuals resident in Ireland.
- Interpol handed over a copy of the information, pertinent to Ireland, to An Garda Síochána.
- Operation Amethyst was set-up and Search Warrants were obtained through the Irish Courts.

- Operation Amethyst was not unravelled. Subsequent to Operation Amethyst a number of convictions were secured.

The productions team's research was extremely thorough. They were fully aware that an element of controversy had arisen out of statements made by Law Enforcement Agencies in the US relating to Landslide. This controversy has no relevance to the story, nor to date has it impacted in any way shape or form on the convictions secured through the Irish Courts referred to within the programme. At no point in the programme was there any reference to 'Operation Ore' in the UK and its scale, success or failure.

The contributors to this programme were all highly respected in their professional fields. In this programme some of the contributors had first hand knowledge or experience of a particular event, others were in a position to contextualise these events within the parameters of the story. RTÉ does not accept that any of the statements referred to by the complainant were untrue, exaggerated or excessive. Nor does RTÉ accept that the programme was false, inflammatory or incited hatred in any way. RTÉ can see no basis whatsoever for the Broadcasting Complaints Commission to uphold this complaint.

#### **Decision of the Commission:**

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that it was evident from the commencement of the programme that the substantive issue was how a chain of events, co-incidents, would result in a certain outcome in Ireland. This was not an analysis of child pornography or methods used in the investigations in America or the UK. The presenter's introduction included the statement 'so much of our lives is decided by chance and co-incidence'. The programme then chronologically traced through the chain, the various coincidences. The chain started in Sri Lanka in 1997, with the credit card spending habits of a Government Official and ended in the Irish Courts, with a number of people being prosecuted under the 1998 Child Trafficking and Pornography Act. It was explained to the viewer that to prosecute individuals under this Act, you had to prove that the person 'had actually accessed it [child pornography], had actually downloaded the child pornography and still had that information on a system several years later'.

This programme was not an investigation into the various operations conducted in the UK or America and nor did it purport to be. As stated in the programme it was a look at 'the chain of events which had started in Sri Lanka and fizzled out in Dallas, was re-ignited by some diligent Postmen and had reached Ireland after a chance conversation between friends in Interpol and now by the good fortune of a vital piece of legislation, it was about to end up in the Irish Courts'. The programme-makers made the editorial decision to look at the events from an Irish perspective. They were perfectly entitled to do so. The fact the complainant asserts that issues have arisen with how operations were conducted in the UK and the USA is not relevant to this broadcast. The programme did not analyse the operations outside of Ireland. This was a programme made from an Irish perspective, about a chain of events that had a major impact here. The programme was presented in a fair manner. There was no evidence of gratuitous or offensive content. Also, there was no evidence of incitement to hatred in this broadcast. With reference to privacy and slander, the complainant was not mentioned or featured in the broadcast, therefore these categories do not apply to the complaint as submitted.

This programme set out to look at what led to the convictions of people here in Ireland on child trafficking and pornography charges. It looked at how a set of events were connected in an Irish context. It did so, in what the Commission considered an impartial and responsible manner. This complaint was rejected with regard to Sections 24(2)(a)(impartiality) and (b)(law & order) of the Broadcasting Act, 2001.

**5.40** *Complaint made by: Mr. George Rice*  
*Ref. No. 131/06*

**Station:** RTÉ TV1  
**Programme:** Black Sheep?  
**Date:** 21 June 2006

### Complaint Summary:

Mr. Rice's complaint, submitted under Section 24(2)(a)(impartiality) of the Broadcasting Act 2001, concerns a broadcast of the series *Black Sheep?* on 21 June 2006. The complainant submits that the broadcast was a calumny; the version of events was untrue, making damaging, though unfounded, allegations of murder and robbery; inciting hate against his late father, himself and his family. He objects to the national broadcaster's projecting fraud as history.

### Station's Response:

RTÉ state that *Black Sheep?* is a series in which an individual traces the story of a family member, usually someone whose past has a mystery. It is therefore a personal odyssey back into an aspect of a family's history. The programme broadcast on 21 May 2001 was billed as 'Patrick O'Connor-Scarteen finds out about the deaths of his two great uncles Tom and John, killed in the Civil War in 1922'. Mr. O'Connor-Scarteen's two uncles had been pro-treaty soldiers who had been killed by anti-treaty forces in Kenmare during the course of the Civil War.

It is not surprising that even after 85 years events of the Civil War still generate emotional and partisan responses. The particular event that was the focus of this programme was the killing of two young men. The subject of the programme, Patrick O'Connor-Scarteen, was obviously going to be sympathetic to his great-uncles' perspective and hostile to those responsible for their deaths. Having said this the search for the truth behind the killings was carried out in an open and fair-minded manner. Reputable historians were spoken to and relatives of those involved in the events were interviewed as the programme's subject engaged in his personal quest to discover the truth behind his uncles' deaths.

It is RTÉ's opinion that the programme was presented in an impartial and objective manner and that all statutory requirements were fully met.

### Decision of the Commission:

The Commission considered the broadcast, the submissions made by the complainant and the broadcaster. On viewing this programme, the Commission noted that it was a personal journey for Mr. O'Connor-Scarteen as he sought to understand the circumstances that led to his two great-uncles deaths during the Civil War, 1922. The rights or wrongs of the war were never the issue of the broadcast. It was evident from the start of the programme that Mr. O'Connor-Scarteen sought to make sense of how men, his uncles had previously fought side-by-side with, had turned on them.

The Commission acknowledges that the issue of the Civil War is a very emotive one and can understand the complainant's reaction to the programme. However, the Commission is of the opinion that this broadcast was fairly presented. The tone was at all times respectful and it was evident that the programme-makers never sought to blame or direct allegations at a particular



person. In exploring the reasons for the deaths of the complainant's two great-uncles, the evidence put forward was put into context i.e. hearsay or drawn from archive material. The references to Mr. J.J. Rice were made in the context of his role at the time as the Commander in Chief in the locality. The Commission was of the view, that in holding this role it was inevitable that he would be mentioned and spoken about in the context of the deaths of the two brothers. There was no discussion about the personality or character of Mr. Rice. The references to him were directly related to his position in the local Republican force at the time.

While the Commission can understand the complainant's reaction to this section of the programme, there was no evidence in the programme of assertions that Mr. J.J. Rice was a murderer or a robber. In the Commission's opinion, the tenet of the programme was that it was a tragic time in Irish history. Mr. O'Connor-Scarreen commented at the end of the programme that 'Kerry was predominantly Anti-Treaty'. Therefore, he believed it 'took courage for his uncles to go Pro-Treaty' and 'maybe their comrades did not see it that way'. The programme did not seek to blame, but rather to understand the circumstances that led to the deaths. The broadcast explored these issues in a fair and respectful manner. There was no evidence of editorial bias in this broadcast. The complaint was rejected with regard to Section 24(2)(a)(impartiality) of the Broadcasting Act, 2001.

**5.41** *Complaint made by: Ms. Barbara O'Keeffe  
Ref. No. 155/06*

**Station:** RTÉ Radio 1  
**Programme:** Tonight with Vincent Browne  
**Date:** 26 June 2006

### Complaint Summary:

Ms. O'Keeffe's complaint, under Section 24(2)(a)(impartiality), relates to a discussion with Mr. Kevin Blaney on a broadcast of the Tonight with Vincent Browne programme on 26 June 2006. The complainant submits that Mr. Blaney stated that he wanted to relate some facts relating to Mr. Jim Gibbons at the time of the Arms Crisis. Mr. Blaney accused Mr. Gibbons of participation in some plot and of perjury. This opinion was unchallenged by the presenter. Mr. Browne also allowed Mr. Blaney's remark that the arms importation was authorised by the Minister of Defence, Mr. Gibbons, to go unchallenged. She also submits that the presenter's own comments added to the imbalance

of the programme. This was an unbalanced and unfair broadcast on the grounds that: -

1. there was no effort on the part of the programme presenter to introduce or acknowledge the possibility of any alternate view;
2. there was no effort on the part of the programme presenter to question the statements described as facts; and
3. there was no effort to emphasise that these statements were personal opinions.

### Station's Response:

RTÉ states that the principal guest on the Tonight with Vincent Browne programme on 26 June 2006 was Harry Boland, son of the former Government Minister Gerry Boland and nephew of Harry Boland who was killed during the Civil War. Also present in the studio were two historians Kieran Allen and Patrick Cooney. Most of the programme was devoted to an interview with Harry Boland in which he recounted his family's involvement in the Civil War, his father's excommunication from the Catholic Church, his father's role in sanctioning internment and execution of Republicans during the Emergency and his own relationship with Charles J Haughey at school, in university and subsequently in business and his views on the Arms Crisis of 1970.

Towards the end of the programme, the production team received a phone call from Kevin Blaney, son of the former Government Minister Neil Blaney who was removed from the cabinet during the Arms Crisis. Mr. Blaney said that he wanted to correct something said on the programme and he was put through to air with less than three minutes of discussion remaining. Mr. Blaney said something along the following lines; 'Vincent, around that time I was in Dáil Éireann around the happenings during the Arms Crisis. Mr. Gibbons went to see the Taoiseach Jack Lynch. Lynch did a deal with Gibbons. They met in Garville Avenue (Jack Lynch's house). Gibbons needed a witness, he didn't trust Jack Lynch. That witness was George Colley. That's where the plot was born. Gibbons committed perjury at the behest of the Taoiseach.....'

At this point the programme presenter Vincent Browne intervened to say 'I'm glad they're all dead now, because we'd be in big trouble if they weren't. Jim Gibbons might not have told the whole truth at the Arms Trial, but he wasn't the only one.' Mr. Blaney then went onto talk about Charles J Haughey also not telling the truth about what he knew.

RTÉ regrets that the programme has upset Ms. O’Keeffe. They do not however believe that the programme failed to be impartial. The programme did not set out to present listeners with a definitive view of the Arms Crisis. Rather it was primarily a lengthy interview with one person recalling his own understanding and observations. The intervention of Mr. Blaney was incidental rather than central to the discussion and was quite accidental to the central purpose of the programme. The programme presenter clearly acknowledged Mr. Blaney’s remark was controversial and by implication contestable. But in the context of the limited amount of time remaining in the programme and the fact that the issue of Mr. Gibbons’ role in the importation of arms in 1970 was tangential to the central purpose of the programme Mr. Browne did not feel the need to interrogate Mr. Blaney. Mr. Browne’s remark about being relieved the principals were dead was an indication to listeners that Mr. Blaney’s statement was a controversial one and one which in other circumstances would warrant a debate and challenge. However, with less than two minutes to go in the programme all that Mr. Browne could do was to signal the controversial nature of Mr. Blaney’s remark and leave the matter there.

The programme dealt with a controversial event that occurred over 35 years ago. Surely it is not necessary on every occasion to present alternative views of what are now historical events. The public’s perception of those events is based on an accumulation of knowledge built up as a result of many references in print, in radio and on television. To conclude RTÉ does not believe the programme was unfair to the family of the late Mr. Gibbons and does not believe it failed the impartiality requirement.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that this complaint relates to a phone call made near the end of a broadcast of the Tonight with Vincent Browne programme. The main content of the programme that night was an interview with Mr. Harry Boland, which included discussing historical events as he remembered them including the Arms Crisis.

The caller to the programme was introduced by the presenter as Mr. Kevin Blaney, son of the former Government Minister Mr. Neil Blaney. He also stated that Mr. Blaney was telephoning to correct a statement of fact made in the course of the discussion in the

programme that night. Mr. Blaney then put forward his personal opinion on issues relating to the Arms Crisis in 1970. On hearing the item, it was evident that the views expressed were those of Mr. Blaney. The Commission also noted that the presenter re-acted to the statement and informed listeners that Mr. Blaney’s comments could be considered controversial. In the context of a live discussion, and the fact that presenter did re-act to the call, a call which was close to the end of the programme, the Commission is of the opinion that there was no evidence of editorial bias in this broadcast. Both Mr. Boland and Mr. Blaney are known to have personal family connections to people that were involved in the Arms Crisis. Listeners are likely to be aware that their views would be influenced by these family connections, and subsequently, by their own related experiences. The presenter also identified who they were i.e. listeners were made aware of the personal experiences and background of Mr. Boland and Mr. Blaney.

In assessing this complaint, the Commission had to take the phone call to the programme in the context of the broadcast as a whole. It was clearly stated by the presenter that the caller had taken issue with something that was said in the course of the discussion on the programme that night. The caller was put on-air and he gave his opinion, which the presenter immediately acknowledged as controversial. Taken in the context of the subject matter and the format of the programme, the phone call itself could not determine bias. This programme was presented in a fair and balanced manner, with no evidence of editorial bias. The complaint was rejected with regard to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

**5.42** *Complaint made by: Mr. Fred Ryan*  
*Ref. No. 156/06*

**Station:** RTÉ Radio 1  
**Programme:** Today with Tom McGurk  
**Date:** 19 July 2006

### Complaint Summary:

Mr. Ryan’s complaint, under Section 24(2)(a)(impartiality), relates to an interview with the Israeli Ambassador to Ireland. He states the presenter, Tom McGurk, was disrespectful and aggressive to the representative of his country that has recently been attacked. The presenter’s bias was clear from the outset and his hostile, hectoring approach in which the Ambassador was frequently interrupted and condemned. Overall, a disproportionate amount

of time was devoted to the presenter's views and opinions. The Ambassador's job is to represent his Country. Regardless of the personal tragedies on both sides, it is not the function of the State broadcaster to challenge the personal morals of its guests. The purpose of the interview was to obtain the views on the Israeli government and not those of the presenter.

The Ambassador's bona fides and morals were questioned in the following quotes from the presenter, that Mr. Ryan made note of: "what sort of games is that!?" "You got [sic] no moral problem with that!" This was framed as a statement not as a question. He states that Ambassador Megiddo was badgered from start to finish and doing another interview on RTÉ is a measure of his decency.

### Station's Response:

RTÉ states the interview was robust but fair. The Israeli Ambassador defended his country's defence forces bombing of Lebanon in their pursuit of Hezbollah and the concomitant deaths of so many Lebanese civilians. The interview was tough, but at all times fair and, indeed, polite. In the context of a country bombing a neighbouring country, it is not surprising that a representative of the country carrying out the bombing would be subject to a rigorous interview. The interview lasted some eight minutes. The Ambassador always had time to respond to all the questions put to him. When the opportunity arises, similarly robust interviews take place with representatives of Hezbollah about their organisation's firing of rockets into Israel.

RTÉ has received no complaint from the Israeli diplomatic representatives in Ireland about the interview. Indeed, Mr. Megiddo has participated in a subsequent interview on the same programme (31 July) with the same presenter. This is surely an indication that the manner of the interview of 19 July was acceptable to the Ambassador. Mr. Ryan in his complaint makes reference to a phrase used by Mr. McGurk. The presenter put to the Ambassador the following "... *the situation in Lebanon is a massive civilian humanitarian disaster, have you a moral problem with that?*" Mr. Ryan argues that this question indicates the lack of impartiality of the presenter. RTÉ believes that this question indicates the lack of context of the number of civilian casualties that resulted from the Israeli bombings of Lebanon and shows no bias on the part of the interviewer.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The topic for discussion, between the presenter and the Israeli Ambassador to Ireland was the bombing of Lebanon by Israel. The Commission noted that the presenter generated a robust discussion. He posed tough questions in the course of the interview. The Commission also noted that he gave the interviewee the time he needed to respond and to express his views and opinions. The Commission found no unfairness in his dealings with the interviewee.

There was no evidence of editorial bias in this programme. The interview was conducted in a fair manner and its style was typical of the type of questioning one would expect given the subject matter in question. This was a challenging, tough and fair interview. This complaint was rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act, 2001.

**5.43 & 5.44** *Complaints made by: Mr. Brendan Price  
Ref. No. 172/06 & 173/06*

**Station:** RTÉ Radio 1  
**Programme:** Mooney Goes Wild  
**Date:** 15 July 2006  
22 July 2006

### Complaint Summary:

Mr. Price's complaints, under Sections 24(2)(a)(impartiality), (b)(law & order), (c)(privacy) and (f)(slander), relates to discussions on the Zoo and wild life during two broadcasts of the series Mooney Goes Wild on RTÉ Radio 1. On the 15 July, the complainant submits that in honoured tradition the programme gave Dublin Zoo a lengthy promotion and interview for the 'happy' event of breeding a few clouded leopards (about time he'd say!). Then as almost an afterthought, following on from the media feeding frenzy of the week about the young woman, mauled by the tiger, they (R.C. excepted, made timid reference to [our] role in shaping people's perceptions of wildlife) passed comment and judgement on the young victim. This is a gross infringement of almost every standard of ethical broadcasting by the morality police on the Mooney show. The girl's priest asked for privacy; the experts failed to investigate or comment impartially; the facts were misrepresented and decency at least should have suspended the triumphalist P.R. item for the Zoo.

The following week, the spin off discussion on human wildlife interaction and ecotourism continued with Éanna Ní Lamhna in 'a discussion' about walking with lions proclaimed imperiously we don't care (give a damn or words to that effect!) about the people, we just care about the animals!! Regretfully this speaks volumes about their knowledge and callous attitude to both wildlife and people, the dangers of their misinformed comments and interventions on wildlife/human interactions and conflict and the dangers they pose to both by cultivating popular misconceptions. They are afraid to face debate or discussion and censor all contradiction. They owe that woman and her family an apology for their judgemental, cavalier treatment and the Zoo and the public the same for misdirecting meaningful discussion or investigation.

### Station's Response:

RTÉ submits that this broadcast was presented by Aonghus McAnally as the regular presenter Derek Mooney was on leave. It featured a report on Dublin Zoo by Terry Flanagan on the birth of two snow leopards. The report was mostly an interview with the leopard's keeper, who gave an account of the pregnancy and birth of the snow leopards. This was followed by a brief studio discussion which dealt with the hazardous situation faced by snow leopards in the wild and the conservation programme being undertaken by zoos attempting to preserve the endangered species. The whole item lasted some ten minutes.

There was a brief reference to the incident in Dublin Zoo where a member of the public climbed over a security fence and was badly mauled. One of the panellists mentioned the 'terrible tragic accident that happened in the zoo'. This was followed by a brief discussion where the requirement to 'respect nature' was stressed. There was no discussion about the level of security in the zoo for members of the public. It simply wasn't discussed. RTÉ cannot see how this brief reference to the incident can in any way have breached any requirement in regard to impartiality, law and order, etc. The evidence of the programme as broadcast does not sustain the complaints in any way.

With reference to the broadcast on 22 July 2006, the opening item on the programme was a responsible discussion about safaris in Zimbabwe and projects to return lions bred in captivity to the wild. The discussion ranged around the well-being of the animals, their dignity, the revenue raised from western tourists visiting the area to observe lions in the wild. Views were expressed in favour of the projects and against the projects. It was a balanced and fair discussion.

Mr. Price's complaint entirely lacks any merit. He is perfectly entitled to campaign against the incarceration of wild animals. But this persistent criticism of the Mooney Goes Wild programme is simply misconceived to use a popular and responsible programme on wild life to further his campaign.

### Decision of the Commission:

The Commission has considered the broadcasts, the submissions made by the complainant and the broadcaster. The Commission noted that the first programme broadcast on 15 July included a discussion about the birth of two snow leopards in Dublin Zoo. The discussion was factual in nature, informative and of public interest. It was not a discussion on captivity or on the pros and cons of zoos. The broadcast item covered the birth of two-snow leopards, during which the interviewer asked the zoo keeper various questions about the event and its importance. In the opinion of the Commission questions were asked to elicit information about the event. At the end of the discussion the presenter said that given the topic of the discussion, i.e. snow leopards, 'we can't ignore the terrible tragedy that happened in Dublin Zoo during the week'. The panellists commented briefly, with the main message being you should not go near wild animals. The Members were of the opinion that the programme addressed the issue responsibly and with due impartiality. There was no evidence of editorial bias in the course of this broadcast. In relation to the second broadcast, 22 July, the Commission was of the opinion that there was also no evidence of editorial bias. The discussion on safaris in Africa was fair and impartial, with both the pros and cons of safaris being addressed. The Commission could not find any evidence of the issues of complaint as submitted by the complainant. These complaints were rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

With reference to Section 24(2)(b)(law & order), the Commission could find no evidence of any content in these broadcasts, which would incite to crime or undermine the authority of the state. In relation to (c)(privacy) and (f)(slander), the complainant was never mentioned in the course of the programmes nor was there any evidence of an assertion which constituted an attack on the honour or reputation of any individual. Therefore, these categories do not apply to the complaint as submitted.

**5.45** Complaint made by: Mr. Peter Dunne  
Ref. No. 183/06

**Station:** Newstalk  
**Programme:** City Edition  
**Date:** 4 August 2006

### Complaint Summary:

Mr. Dunne's complaint, under Section 24(2)(a)(impartiality), relates to an interview with Mr. Ger Deering, the Taxi Regulator, during a broadcast of City Edition on 1 August 2006. The programme was flagged in advance with requests to phone or e-mail or text the programme. While Mr. Deering was being interviewed only one e-mail was read out and no live interview of any contrary view was allowed. Mr. Deering was allowed free rein to expand his views in a clearly partisan manner. He also provided data from the Taxi representatives which it was contended he presented in a distorted manner and he presented his version of matters concerning changes to the taxi trade which are disputed by the vast majority of drivers and their representatives. The complainant and a great many drivers resent Mr. Deering being given free air time without a contrary view being presented to balance the debate.

It was contended that Mr. Deering was allowed to present a clear impression that his office had granted a fare increase and that he had included a fuel rise in that increase as far back as November 2005 taking into account the high fuel cost prevalent at present. This "*ludicrous statement*" was not challenged by the presenter. Mr. Deering could not have known what the "*present*" high price of fuel would be back then. If he did then he was in the wrong job and he should be employed as a consultant by the Oil Producing and Exporting Countries (OPEC).

He claims that no taxi representative was given airtime to contradict any of the inflated and erroneous claims made by Mr. Deering. Requests to do so had been ignored by the radio station in question. This was unsatisfactory in a democracy and he called on the radio station to apologise to the Taxi industry and offer equal airtime to taxi representatives to rebut the claims made by Mr. Deering in this one sided interview.

### Station's Response:

Newstalk submits that they consider the position of the Taxi Regulator to be like that of the Director of the Dublin Transport Office, the Lord Mayor, the Head of the Consumer Association and worthy of an individual one-to-one interview. The station had similar question-and-answer sessions with people mentioned in the three above named positions. The main aim of the interview was to inform the listeners of changes to the taxi industry. Mr. Deering was challenged throughout the piece. The presenter referred to several points in an e-mail sent in by a taxi driver that listed a number of complaints from drivers at odds with the Taxi Regulator.

It is the case that only one e-mail was referred to, however the producer felt that this e-mail brought together all of the relevant points. During the interview, the presenter also referred to calls coming in on the topic – one of the calls was read out. Other questions were based on texts and calls.

The station contends that the complainant's criticism that the presenter gave the interviewee a free rein is unfair. The presenter never has, and never intends to, take sides in this debate. Mr. Deering was consistently challenged on various matters such as the drop in revenue on short-runs and the problems experienced by drivers because of deregulation. The presenter also expressed drivers concerns about earnings and the rising costs of fuel.

The broadcaster further submits that Taxi Union Representatives are regulars on Newstalk. They are given more time than a Taxi Regulator. In fact, Tommy Gorman (the National Taxi Drivers Union President) has been on the lunchtime programme twice since the City Edition interview went out. Mr. Gorman also appeared alongside Mr. Ger Deering on the Breakfast programme of the 17 August 2006.

The station states that it has a strong relationship with the taxi drivers and the unions that represent them. They are always happy to deal with their concerns. However, on this occasion they are satisfied that proper procedures were followed in relation to this story.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that the context of the interview was the introduction of a new taxi fare system, and changes to the regulation of the taxi industry, due for implementation in Ireland by the

Commission for Taxi Regulation. In this regard, the guest on the programme was the Commissioner for Taxi Regulation, Mr. Ger Deering. As he is head of the office, it is perfectly reasonable that he would speak on behalf of his office about the changes it was implementing, with which the industry would have to comply. The listener was at all times aware that the interviewee was head of the Commission For Taxi Regulation and as such, that he was speaking on behalf of this body. What is important to the Commission is that the interview was conducted in a fair and balanced manner.

On hearing the interview, the Members believed it was evident that the discussion was based on the implementation of the new national maximum taxi fare system and changes such as a new complaints process in the regulation of the industry. The interviewer questioned and explored the proposals with Mr. Deering in an informative and impartial manner. The implications for the industry and the public were discussed. In the course of the interview, the presenter posed questions, and challenged responses, to elicit information on how the new regulations were developed and what their implications would be for both the industry and the consumer. This was a fair and impartial interview. The discussion was about the changes being implemented by the regulator. Therefore, it was appropriate that a member of the Commission responsible for the new regulations would be interviewed. This was not a debate on the merits or otherwise of regulation and/or the changes to the taxi trade. It was an informative discussion on the changes to taxi regulation, which were being implemented by the Taxi Regulator. Such a topic was of public interest. The Members of the BCC were of the opinion that the interview was conducted fairly, with the aim of better informing the listener about the new taxi regulations. There was no evidence of editorial bias in this broadcast. This complaint was rejected with regard to Section 24(2)(a)(impartiality).

**5.46** *Complaint made by: Mr. Donal O'Sullivan  
Ref. No. 185/06*

**Station:** Newstalk  
**Programme:** Life with Orla Barry  
**Date:** 18 July 2006

### Complaint Summary:

Mr. O'Sullivan's complaint, submitted Section 24(2)(a)(impartiality), relates to views expressed by the presenter about an undercover report by one of the station's employees in relation to practices of an Irish

Pregnancy Advice Centre. Mr. O'Sullivan states that Orla Barry clearly indicated her own view in relation to the group she referred to as 'A Choice for Women, Woman's Resource Centre'. The views, he believes, were expressed by both the content and tone of her words. Ms. Barry's introduction to the report included: - *You may have read in your weekend newspapers about the practices of a certain advice centre here in Dublin. The group in question goes under the name of a Choice for Women – Woman's Resource Centre and it advertises its services as one that offers advice on all options in a crisis pregnancy and also offers post-abortion counselling. However, what Newstalk has discovered is that women who visit the centre are instead being subjected to manipulation and misinformation. For a four month period Newstalk reporter Aisling Riordan went undercover to expose the centre's practices and what you will hear next is her story. I should warn you that some listeners may find some of this audio disturbing'.*

Mr. O'Sullivan queries why Orla Barry felt the need to tell people how to interpret the report before they were given a chance to hear it. Her interpretation was communicated through the use of prejudicial terms as 'shocking', 'exposé', 'manipulation'. He claims these terms were clearly added to prejudice the listener in favour of a particular interpretation. The complainant believes this was an attempt to manipulate the listener. The onus is on a broadcaster to be impartial. However, the broadcaster in this case while expressing her own view demonstrates abuse of power which is harmful to the listener. This is also the reason why the prohibition against the expression of the broadcaster's own views under impartiality must be upheld.

### Station's Response:

Newstalk in their response state that on August 18 2006, the Life with Orla Barry programme broadcast an undercover investigative report detailing concerns by members of the public into certain practices of the Alpha crisis pregnancy agency also known as 'A Choice for Women, Woman's Resource Centre'. The Newstalk programme entitled 'Abortion, My Journey' was a two part documentary by reporter Aisling Riordan. Broadcast over two days, it also included a live round table panel discussion with various sides of the debate in addition to listener interaction. Newstalk claim the entire broadcast was produced in a fair, balanced and impartial manner in accordance with the Broadcasting Act 2001. This broadcast, the station state, was a matter of public interest.

The station also submits that listeners comments were received and aired throughout the programme. This included a vox-pop of people on the streets of Dublin and London. The reporter also rang the Alpha office (A Choice for Women – Women’s Resource Centres answered) on a number of occasions in the week leading up to the broadcast stating it was urgent that someone get back to her. However, no one returned her calls. Subsequently, Alpha sent through a fax demanding their legal right of reply and Newstalk offered them a place on the panel discussion which was to take place on the 20 July. On that date Newstalk made a call to Patrick Jameson, PRO for Alpha who had agreed to take part, but got no answer to the call. Marie Peterson, a spokesperson for Alpha in London took the call. Among others who took part was a spokesperson from Pro-Life Campaign, Consultant Medical Oncologist Dr. John Kennedy, and the Director of Services at the Irish Family Planning Association. A pre-recorded interview with Caroline Spillane, Director of Crisis Pregnancy Agency was broadcast expressing concern at the operation of this agency. Newstalk provided lists of pro-life and pro-choice comments from listeners broadcast on Wednesday 19 and Thursday 20 July.

#### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that the complainant has only taken issue with the introduction given by the presenter to the report on an organisation called Alpha. However, in assessing this complaint, the Commission was obliged to consider the broadcast as a whole i.e. the report was intrinsic to the programme and the introduction given by the presenter. The report was an undercover investigation into a clinic that promoted itself as a standard family planning clinic. Having heard the broadcast, the Commission was of the opinion that the content was hard-hitting and at times disturbing. The subject matter was emotive and the report dealt with the issue responsibly, in a factual and impartial manner. The presenter, Orla Barry, introduced the report. Her introduction was factual in nature and she clearly identified for the listener that the upcoming report maybe disturbing. The introduction was based on the content of the report. The Commission was of the view that the presenter gave an accurate and clear description of the report. She correctly fore-warned the listener that what they were about to hear maybe distressing for some. It is common practice for presenters to introduce and contextualise reports. In this broadcast, the presenter’s introduction was not determinative of bias or partiality on part of the broadcaster. The introduction

was factually based on the contents of the report that was subsequently broadcast. The complaint was rejected with regard to Section 24(2)(a)(impartiality).

**5.47** *Complaint made by: Mr. X*  
*Ref. No. 186/06*

**Station:** RTÉ 2  
**Programme:** News on Two  
**Date:** 14 August 2006

The sensitivity of the subject matter, and in particular the personal details, and the potential invasion of privacy of the complainant overrides the public interest in making the complaint decision publicly available.

**5.48** *Complaint made by: Mr. Risteard Ó Fuaráin*  
*Ref. No. 196/06*

**Station:** RTÉ  
**Programme:** Aertel – GAA match preview  
**Date:** 20 August 2006

#### Complaint Summary:

Mr. Ó Fuaráin’s complaint, submitted under Section 24(2)(a)(impartiality), relates to a preview of the All-Ireland Semi-Final featuring Kerry and Cork carried on Aertel on Sunday, 20 August 2006. He quotes from this preview: - ‘Kerry have added a cynical note to their play. They constantly interfere with players running of the ball to break down build-up play.’ He feels that this was a very biased preview and very unfair to Kerry to state that they have become a cynical team. He feels that it portrayed Kerry in a very negative light and indeed that it would be grossly unfair to label any team thus.

#### Station’s Response:

RTÉ submit that they wish to make two points in regard to this complaint. Firstly, the obligation to be impartial only applies to News and Current Affairs. It was never intended that sports commentary should have the same obligations as News and Current Affairs. The genre of sports commentary is littered with opinion, passion, partisanship and excitement. If the strict obligations which apply to current affairs applied to sports commentary much of what is broadcast would be judged as unacceptable. There is a licence in sports commentary which is not available in News and Current Affairs which permits passion and loyalty to play a role in commentary. This is the precise reason

why the obligation to be impartial does not apply to sports commentary. Having stated this, when it comes to national events RTÉ believes that its sports commentary is even handed in the manner in which the performances of county teams are assessed. This leads to RTÉ's second point.

The second point RTÉ wishes to make is that what was carried on Aertel was simply fair comment. The author of the preview stated 'Kerry have added a cynical nature to their play. They constantly interfere with players running off-the-ball to break down build-up play'. It is RTÉ's view, whether one agrees with the comment or not, that it is a fair comment. It expresses the view of the person chosen to write the preview. That person presumably would not have been chosen to write the preview were he not to have some expertise in Gaelic Football. The comment was his own personal view of how the Kerry team plays. He was entitled to make his views known. RTÉ by broadcasting this comment was not endorsing the comment. RTÉ was simply broadcasting an opinion. It expresses the views of the journalist who wrote the preview. It cannot be construed as RTÉ corporately editorialising. Across its radio and television services RTÉ broadcasts thousands of opinions and views every day. This is the very nature of public debate. RTÉ does not endorse all those views; they are broadcast as contributions to public debate, nothing more.

RTÉ's view is that the complaint cannot be upheld on two grounds, firstly the preview is fair comment and secondly, even if this is not accepted, RTÉ is not obliged to be impartial in sport commentary.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that the complaint related to a preview of an All-Ireland Football match. In this regard, Members were cognisant that such material would be expected to include the views and opinions of the journalist/reporter. In this regard, Section 24(2)(a)(impartiality) of the Broadcasting Act 2001 is not applicable to the complaint as submitted. Therefore, the complaint was rejected.

**5.49** *Complaint made by: Mr. Patrick Kavanagh*  
*Ref. No. 210/06*

**5.50** *Complaint made by: Mr. Nicholas Healy*  
*Ref. No. 221/06*

**Station:** RTÉ TV1  
**Programme:** The Late Late Show  
**Date:** 8 September 2006

### Complaint Summary:

Mr. Kavanagh's complaint, submitted under Section 24(2)(a)(impartiality), relates to content of the Late Late Show broadcast on 8 September 2006. He believes it was a complete insult to all who had the misfortune to watch the programme.

He contended that one section of the programme was especially hurtful and distressful to those who are victims of paedophilia or who had relatives who suffered grievously at the hands of a paedophile. The host would have done his homework and so fed him all questions to glean the details of the visitor's nefarious life. He accepts that this man did commence his dissertation by apologising to all his victims for the terrible hurt he had caused to them.

Secondly, the presenter interviewed a so-called comedian from the UK with a well earned reputation of being clever with words; and vulgarly funny. He lived up to his reputation, again being line-fed by Mr. Kenny. When the comedian uttered an extremely personal insult about the second highest member of the Irish Government, Mr. Kenny merely giggled with an 'oh, you are awful, but I like you' doubling-up in his chair. At no stage did he make an apology for the insulting remarks of his guest.

The show ended with a male striptease, which we were led to believe during the course of the show, might, or might, not happen. But we all knew it was going to, much to the boyish amusement of our intrepid compere.

Mr. Healy's complaint, submitted under Section 24(2)(a)(impartiality), relates to the interview of the self confessed paedophile on the Late Late Show broadcast on 8 September 2006. He states that the presenter's failure to ask hard and important questions challenges his suitability as a host. He believes the interview was lacking in balance with no input from professionals which was grossly irresponsible. He also believes that this is not the first time that RTÉ and the Late Late Show



failed to comprehend the magnitude of untold suffering caused to so many innocent victims mostly young children, through careless and thoughtless programmes. He states that this was a cop out by RTÉ; indefensible, lacking in compassion, heartless, cruel and a dereliction of duty.

### Station's Response:

RTÉ submit that the programme on 8 September included an interview with a convicted paedophile, Mr. Jake Goldenflame, who has apologised for his behaviour and who now spends time in the rehabilitation of convicted sex offenders. He is also an advocate of *Megan's Law*, whereby communities are entitled to know the whereabouts of people on sex offenders registers. He was invited onto the programme in order to raise important issues about the nature of paedophilia and the dangers posed to young people by sexual predators. The programme presenter conducted the interview in an objective and fair manner. The heinous nature of his crimes was openly discussed. Mr. Goldenflame admitted his guilt and attempted to explain to viewers the mentality of paedophiles. RTÉ believes the programme contributed to public understanding of paedophilia and was as such a public service.

On 15 September the programme returned to the same topic when four experts in the field of the treatment of sexual offenders and their victims were on the panel and a number of critics of the Mr. Goldenflame interview were positioned in the audience and given an opportunity of contributing to the debate. RTÉ believes these two programme should be considered together. As members of the Commission are aware there is a provision in broadcasting legislation to allow balance to be achieved over a number of related programmes.

It is RTÉ's view that the first broadcast when judged on its own was impartial and objective. But when the second broadcast is considered along with the first there can be no question whatsoever that there was any breach of obligations in regard to impartiality and objectivity. The first programme was an impartial interview with a guest who expressed controversial views. The second programme followed up with a discussion on the issues raised in the first programme. RTÉ believes there is no case to answer in regard to the fulfilment of its statutory obligations.

The interview with Jimmy Carr was broadcast after 11pm. Mr. Carr is a very successful comedian in the UK whose humour is known to be hard-hitting and on occasion close to offensive. Any audience familiar

with Mr. Carr's humour would not have been surprised by his jokes. His joke at the expense of the Minister of Health has caused Mr. Kavanagh to complain about this part of the programme. RTÉ believes the remarks were not aimed at the Minister personally, but were about the campaign against obesity by health authorities. Therefore, RTÉ does not accept that there was any reason for the presenter to apologise for Mr. Carr's remark.

RTÉ accepts that the inclusion of the extract of the 'Full Monty' stage show was not the most appropriate on the night. Given the nature of the interview on paedophilia it might have been better to separate the two items and broadcast them on different programmes. However, having acknowledged this RTÉ also believes that the actual extract from the show was harmless and regarded by the audience as simply a piece of fun and having no connection with previous items on the programme. The audience of the programme is very familiar with the mix of entertainment and serious debate that the 'Late Late Show' has featured for more than 40 years. The programme of 8 September 2006 was not exceptional in any way.

### Decision of the Commission:

The Commission considered the broadcast, the submissions made by the complainant and the broadcaster. During this broadcast of the Late Late Show Mr. Kenny interviewed Mr. Jake Goldenflame, a paedophile. He was introduced as such and reference was also made to his sexual crimes. Mr. Kenny also warned, 'I don't think you're going to like much about my next guest'. In assessing this particular complaint, the Commission acknowledges that many viewers would find it extremely difficult and odious to watch an interview with a paedophile. Such subject matter is extremely emotive and distressing, particularly for victims of such abuse. However, the Commission can only assess the complaint in terms of impartiality.

The interview in question dealt with Mr. Goldenflame's life including his sexual crimes and his views and opinions on criminal sexual behaviour. The viewer was aware that the views expressed were from Mr. Goldenflame's perspective. This programme regularly features interviews with individuals about their lives. The exploration of the life and work of an individual is a legitimate editorial decision for a broadcaster to make. The viewer is left to make his/her own judgement. What the Commission must consider is how the interview was conducted; was it impartial? The presenter permitted Mr. Goldenflame to speak about his criminal sexual

activities and to give his own views and opinions. The Commission is of opinion that the presenter posed questions to elicit information from the interviewee in a fair and impartial manner. There was no evidence of editorial bias in this interview.

The Commission acknowledges the substance of the complaint and in particular the question of the appropriateness of the mix of guests including the comedian and the striptease group. However, complaints dealing with offence concerning an RTÉ broadcast in this regard, cannot be assessed by the BCC. Such assessment will be facilitated by the implementation of a Code of Programme Standards, which is currently being drafted by the Broadcasting Commission of Ireland.

The Commission notes that the broadcaster submitted two broadcasts in relation to this complaint. This is in line with legislation which permits that balance can be achieved over two or more broadcasts. Subsequent to the broadcast of the 8 September 2006, the Late Late Show of 15 September included a panel discussion on paedophilia. However, in assessing this complaint the Commission had to be cognisant that broadcasters regularly conduct interviews with individuals about their lives. In line with Commission procedures, each complaint is assessed on its own merits. However the Commission must also be consistent in its determinations. In this regard, the Commission has previously made determinations on complaints concerning the interviewing of particular individuals about their lives. While the merits of each interview differ, the programme format, - that of exploring an individual's life story, - is common to such complaints. The Commission understands and empathises with the re-action of the complainant to the programme. Given the fact that RTÉ scheduled a panel discussion for the subsequent programme, it is probably a feeling shared by many viewers of the programme on that night. However, the broadcaster is entitled to interview individuals about their life stories. What the Commission must consider is that the interview is conducted in a fair and balanced manner. The Commission could not determine the partiality or impartiality of the broadcast on the basis of the subject matter. As stated previously the Commission is obliged to assess how the interview itself was conducted. In the opinion of the Commission, the presenter facilitated an impartial discussion during the programme of 8 September. There was no evidence of editorial bias in this broadcast. Based on this determination, the Commission did not consider the second broadcast submitted by the broadcaster. The complaint was rejected with reference to Section 24(2)(a)(impartiality).

**5.51** *Complaint made by: Mr. & Mrs. X*  
*Ref. No. 211/06*

**Station:** RTÉ TV1  
**Programme:** Six-One and Nine O'Clock News  
**Date:** 5 September 2006

### Complaint Summary:

Mr. & Mrs. X's complaint, submitted under Section 24(2)(a)(impartiality), relates to a report on cervical cancer during the news broadcast at 6 p.m. and 9 p.m. on RTÉ TV1 on 5 September 2006. They submit that in the course of the report it was alleged that cancer of the cervix was a 'sexually transmitted disease' and the clear impression was given this was the only way of contracting this disease. This was grievously insulting to women suffering from this disease, to the memory of those women who have died from it, to family members especially spouses, children, family and friends etc. According to CANCERBACUP and official documents of the Mater Private Hospital 'there are many women without (sexual) factors who contract the disease'. This complaint was made at 6.15 p.m. on the 5 September to the news editor in RTÉ. There was no retraction in the 9 p.m. of the blanket denouncement and the same insult, and general comments were repeated. The complainant is sure that the woman who appeared on the programme did not know of this.

Reporting that this cancer is a 'sexually transmitted disease' was inaccurate since it is a sexually transmitted virus and later becomes a disease. This was embarrassing to say the least, since it imputes that the person transmitting the virus was in some way 'diseased' to begin with. RTÉ should have said that the *virus* was sexually transmitted.

This is a sensitive issue and in particular, the fact that some women 'blame' themselves needlessly. RTÉ exacerbated this blame by not saying cervical cancer could also be a 2 partner disease. This small point without diluting the emphasis of the story could have been informatively made in the context of the importance of regular check ups.

### Station's Response:

RTÉ submit that the report covered a medical breakthrough in the prevention of cervical cancer. The item opened with the studio introduction which stated the first vaccine against cervical cancer was now available and that seventy women died each year in Ireland from the disease. This was followed by a report from RTÉ's Health Correspondent, Fergal Bowers. The report opened with an interview with a woman who had been diagnosed with cervical cancer. She had undergone surgery and chemotherapy treatment. There then followed an account of an international conference in Prague which outlined some details of the medical breakthrough. During the course of this part of the report Fergal Bowers stated that cervical cancer was a sexually transmitted disease.

The fact is that cervical cancer is the result of some process that occurs during sexual intercourse. One of the major discoveries in relation to cervical cancer was that it was caused by a virus, the Human Papillomavirus, of which several strains are responsible for most cases of this cancer. This is a scientific and medical fact. You do not have to be promiscuous to get the virus, it is a common sexually transmitted virus (carried by men) that causes this cancer. This fact has been reported on in the print media and is well-documented in medical and scientific literature.

This was a report on a major scientific breakthrough, the first vaccine for cervical cancer, at the International Papillomavirus Conference attended by top doctors from around the world in Prague. Even the idea of vaccinating young girls aged around 12 years has provoked some controversy in the US, with opposition from conservative Christian groups and pro-abstinence lobbies, who fear vaccination could encourage promiscuity. Clearly the subject is sensitive but important too.

The report was factual, included the case of a woman who had the cancer, the experts who have developed this first vaccine against a cancer and a sexually transmitted disease and a medical expert who explained its significance. The Irish Cancer Society assisted Mr. Bowers in his research and made the point during a recent media briefing that many people are not aware that this cancer is caused by a virus, hence the need for regular screening. The report was informative, highlighting a significant medical breakthrough and, for some, made them aware for the first time this is a sexually transmitted disease. There was no suggestion in the report that people who contract cervical cancer have behaved in a promiscuous fashion. One partner may be sufficient for the disease to be passed on.

RTÉ cannot see how the report fails to be impartial. The reporter's only concern was to report accurately on the facts behind the disease and the newly developed vaccine. He was not commenting in any way on people who contract the disease.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainants and the broadcaster. The news report dealt with a medical breakthrough concerning a vaccine for cervical cancer. The Commission noted that the statement referred to in the complaint could be considered to be inaccurate. However, this could not determine the question of bias of the broadcast. The Commission acknowledges the concerns of the complainants and also, the sensitivity of the subject matter of the report. In assessing this complaint, the Commission must consider the content of the whole report. On hearing the news item, the Commission is of the opinion that taken in its entirety it was fair. The main thrust of the report was the medical breakthrough. The tone was at all times serious and responsible. There was no evidence of editorial bias in this report. The complaint was rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001.

**5.52** *Complaint made by: Mr. Eamonn Quinn on behalf of the Unmarried and Separated Fathers of Ireland Ref. No. 237/06*

**Station:** RTÉ 1  
**Programme:** Liveline  
**Date:** 9 October 2006

### Complaint Summary:

Mr. Quinn's complaint, submitted under Section 24(2)(a)(impartiality), on behalf of the Unmarried and Separated Fathers of Ireland, refers to an item relating to the new appointment of a Family Court Reporter to the Family Court service. Mr. Quinn states that the subject for discussion was how people feel about this new recording system. However, the discussion strayed away from the topic and continued into personal cases of bitterness by ex-wives or partners. Furthermore, 15 women compared to 4 men were allowed on air resulting in an imbalance of views. Mr. Quinn claims that the programme was female orientated and this caused distress to many men and fathers as they were, once again, demonised and left without a fair hearing.

Mr. Quinn states that the group he represents is well respected, is a limited company and operates in a non-judgmental, non-gender and non-discriminatory way at all times. Having equal numbers of men and women at their weekly meetings on Tuesday nights speaks for itself. They believe the discussion on this broadcast was demonising of men and fathers and that it did not give a fair balance on a pro rata basis to men or fathers.

### Station's Response:

RTÉ, in their response, state that this programme opened with the presenter, Joe Duffy, informing listeners that the Court Services had appointed for the first time, a Family Courts Reporter. Listeners were informed that family courts are held *in camera* to protect the privacy of minors and others but that there was a demand for information about how the courts operate in general. Mr. Duffy made clear to listeners that Liveline could not allow details of individual cases to be aired as it might result in people before the courts being identified.

RTÉ provide details of each of the seventeen contributions made to the programme ranging from experiences relating to maintenance orders, to access to children, to mediation and the unfairness of the system against both men and women. A total of five men and twelve women were featured. One of the women said she wanted to stand up for men and stated that up to the time of her coming on air the programme had featured mostly women.

RTÉ believes the programme dealt fairly with all issues concerning separation, access to children and maintenance and does not accept that there was any bias against men's interests. The programme showed how difficult the whole area of separation, access and maintenance is for the family courts. The presenter did his best to be fair to all interests and, at one point, stressed to listeners that the issue was not man versus woman.

In relation to the Mr. Quinn's claim that numerous of his colleagues had phoned the programme, RTÉ state that the researchers taking calls are wary when a lobby group attempts to get their viewpoints on air. The producer made every reasonable effort to ensure that a variety of views got to air and that the positions adopted by contributors reflected the variety of calls they received. The viewpoints of Mr. Quinn's group were included in the programme. As a general rule, the programme prefers to take calls from individuals who appear not to be members of lobby groups. RTÉ is fully confident that the contributors who participated in the programme

were representative and reflected the range of interests on the emotional issues under examination.

### Decision of the Commission:

The Commission considered the broadcast, the submissions made by the complainant and the broadcaster. At the outset of the broadcast, the presenter said that the programme would cover the Family Law Courts in light of the new appointment of a Family Court Reporter. The subsequent discussion included callers who had experienced the Family Law Courts. The Commission noted that the mainstay of the discussion was the actual experiences of women and men in such courts. It was evident that the callers believed the procedures and processes were difficult for all; men, women and children. The presenter let the callers talk about their experiences and he also sought views and opinions on the appointment of the reporter. He facilitated a fair and balanced discussion on Family Law Courts. He ensured that callers did not tell too personalised a story by focussing on their experiences in the Family Law Courts.

On hearing the broadcast, the Commission was of the view that the listener was informed of how difficult and upsetting separation can be for all those affected by it. It was a fair and balanced discussion on the Family Law Courts, with no evidence of the demonising of men and fathers as submitted by the complainant. The programme dealt with the experiences that various callers to the programme had with the procedures in place for marriage separation in Ireland. This discussion did not deal in anyway with any male versus female issues. It was not such a debate and therefore, the broadcaster was not obliged to balance the number of female participants with that of male participants in the programme. That the numbers were not equal could not determine the bias of the broadcast.

At the outset of the programme, the presenter clearly indicated to the listener that the programme would deal with the Family Law Courts. The Commission is of the opinion that the presenter facilitated a fair and balanced discussion on the topic. The Commission noted that the presenter did intercede at times to ensure that callers did not personalise their stories, but told of their experience of the Courts. There was no evidence of editorial bias in this broadcast. The complaint was rejected with reference to Section 24(2)(a)(impartiality).

**5.53** *Complaint made by: Mr. Martin Crotty*  
*Ref. No. 240/06*

**Station:** RTÉ Radio 1  
**Programme:** Tonight with Vincent Browne  
**Date:** 12 October 2006

### Complaint Summary:

Mr. Crotty's complaint, submitted under Section 24(2)(a)(impartiality), concerns a broadcast of Tonight with Vincent Browne which dealt with the Morris Tribunal Inquiry. Mr. Browne alleged on a number of occasions that Gardaí must have committed perjury – he was referring to Gardaí who gave evidence at the Tribunal. The complainant submits that Mr. Browne was in breach of the relevant legislation in the making of these statements.

The panel on this night included a Mr. Cunningham and journalist Frank Connolly. At the end of the programme, a phone call was made by Ms. Karen McGlinchey which seemed to have been pre-arranged wherein she gave her views by way of commentary on the situation as she saw it in relation to certain Gardaí in Donegal. No hard questions were asked of any of the commentators – what occurred was akin to a mini-tribunal with almost universal agreement with one another and the views of the presenter. He would also question the objectivity of Mr. Connolly who writes for The Village magazine and Ms. McGlinchey as she was herself the subject of one of the modules of the Tribunal and that must surely disqualify her as an independent commentator.

Mr. Browne went way beyond the remit of the Morris Tribunal's findings in alleging directly or indirectly on the programme that Gardaí had or must have committed perjury in relation to certain evidence they gave to the Tribunal. Surely such a finding would be a matter for the Tribunal not for the presenter of a Radio programme. Mr. Browne was using airtime on RTÉ radio to express his own opinions and prejudices. To allege that Gardaí committed or could have committed perjury was a grave injustice to a number of Gardaí who were not represented on the programme and must amount to a serious breach of basic fairness on the part of the presenter in respect of the Gardaí concerned.

### Station's Response:

RTÉ states that the Tonight with Vincent Browne programme has over a number of years reported on and analysed all the various tribunals and inquiries taking place in this State. On 12 October the entire programme was given over to the reading of extracts from the Morris Tribunal and analysis in studio from two journalists who had been reporting on the tribunal and from one contributor by telephone whose family had already participated in the Tribunal's inquiries. The matter under investigation by the Morris Tribunal at the time of the programme was the conduct of some members of the Gardaí in Burnfoot, Co. Donegal, of whom it was alleged that they had placed a firearm in a traveller encampment in order to implicate members of the travelling community in a murder.

Mr. Crotty believes that the presenter used the programme to express his own personal views. It is RTÉ's view that Mr. Browne and the other contributors to the programme on the night were entitled to state that perjury had taken place and that this wasn't simply the expression of a 'personal view'. It was rather the inevitable and only conclusion to any analysis of the evidence presented to the Tribunal. The Tribunal had found as a matter of fact that a) some of the seven detained members of the Traveller community had been subject to racist abuse; b) some of them had also been shown photographs of the deceased person whose murder was being investigated; c) all Gardaí involved in the interrogations have given evidence to the Tribunal; d) all of the Gardaí denied they either abused the detainees by the use of racist language or had shown the photograph of the deceased to the detainees. From this it was reasonable to conclude that several of these Gardaí gave perjured evidence.

The participants on the programme on 12 October were amongst the few people well placed to comment on the Morris Tribunal. Their background as itemised by the complainant is entirely irrelevant. Vincent Browne has no part whatsoever in choosing the participants on the programme. Indeed, Mr. Browne has been meticulous in ensuring that nothing he does or says on the programme in any way advances his own private or commercial interest.

RTÉ is fully confident that the programme provided a valuable service to the public and was fully in conformity with all statutory requirements. It is in the public interest to draw attention to the revelations of wrong-doing being exposed by the various tribunals.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. This particular broadcast of the Tonight with Vincent Browne programme discussed the Morris Tribunal report on the Burnfoot module. The presenter introduced his two panellists and clearly indicated their backgrounds. At the end of the programme, he also introduced the caller and informed the listeners of her connection to the Tribunal. The complainant questioned the independence of the panellists and the caller. The Commission noted that the two panellists, Mr. Cunningham and Mr. Connolly, are well-known for their reporting on the Morris Tribunal and therefore, one would expect that a programme-maker would draw on their knowledge and experience. The programme delved into the Morris Tribunal report on the Burnfoot module. On hearing the programme, it was evident that the panellists and the presenter were knowledgeable and well-informed about the Tribunal. In order to assess and dissect the report, such knowledge would have been a pre-requisite. The selection of panellists on the programme could not determine the bias of the programme.

In the course of the programme extracts were read from the report. The report was strident in its criticism of the Gardaí and in particular, the manner in which some of them gave their evidence. The Commission was of the view that the presenter's, Mr. Vincent Browne, comments and questions reflected the contents of the report. He stated no more than what the Chairman of the Tribunal stated in the report. The Commission would acknowledge that the presenter may have done so in more express terms. However, given the weight of evidence in the report, the Commission was of the opinion that the statements and questions posed by the presenter were based on fact. The Morris Tribunal report on the Burnfoot module was extremely critical of various Gardaí and aspects of Gardaí procedures. Therefore, one could expect that questions based on the report would be negative in nature. This cannot determine the bias of the programme.

The questions and comments were based on the findings of the Morris Tribunal. This programme dealt with the issues raised in the report in a matter-of-fact manner; the report was about abuse of power and the discussion on the programme dealt with this issue in an informative, fair and factual manner. The subject matter was treated fairly in this broadcast.

At the end of the programme Ms. Karen McGlinchey was asked for her opinion on the Burnfoot report. The presenter told the listener of Ms. McGlinchey's background. As with the selection of panellists on the programme, the background of the person could not determine the bias of the programme. The Commission must assess the content of the broadcast. On hearing this broadcast, the Commission was of the opinion that the presenter facilitated a fair and impartial discussion on the Burnfoot module report. The guests on the programme were interviewed in a fair and balanced manner. The discussion was factually based on a critical and unfavourable report of the Morris Tribunal concerning the actions of Gardaí in an incident in Burnfoot. There was no evidence of editorial bias in this broadcast. The complaint was rejected with reference to Section 24(2)(a)(impartiality).

**5.54** *Complaint made by: Mr. Paul Feddis*  
*Ref. No. 249/06*

**Station:** RTÉ Radio 1  
**Programme:** Nine O'Clock News  
**Date:** 5 October 2006

### Complaint Summary:

Mr. Feddis' complaint, submitted under Section 24(2)(a)(impartiality), which relates to a report on the RTÉ Nine O'Clock News on the jailing of three people for ATM card skimming. The people/gang were referred to as being 'eastern European'. He wants to complain about the use of the term 'eastern European' in the reporting of crime. Due its widespread use by RTÉ and other news organisations, it promotes the idea that all people from eastern Europe (a geographic region) are more prone to committing crime when in fact most of them work hard, pay their taxes and obey the law.

If there was a news item about a crime committed by a Spanish or French person, only the nationality of the person would be given and they would not be referred to as being 'western European'. He has no objection to the nationality of people being broadcast. However, 'eastern European' is a geographic region. He regards the use of 'eastern European' as a form of systemic racial discrimination.

### Station's Response:

RTÉ submits that they did refer to three people convicted of fraud as Eastern European, but does not believe this description has anything whatsoever to do with impartiality. The failure to achieve impartiality suggests bias or unfairness. Mr. Feddis claims the report was unfair to people of Eastern Europe who did not share the nationality of those convicted.

The background to the complaint is not in dispute. Three people from Romania were convicted in the Circuit Court of fraud and sentenced to four years in prison. RTÉ's Crime Correspondence reported on the case. In his report, the correspondent described those convicted as 'members of an Eastern European fraud gang'. He chose not to inform viewers of the actual nationality of the three convicted gang members. This was a conscious decision and was taken for two reasons: - firstly, he wished to avoid stereotyping all Romanians as involved in crime and secondly, he was aware other gangs involved in similar types of crime included people from Bulgaria and other Eastern European countries.

RTÉ cannot see how the report can possibly be judged partial simply because the correspondent chose for understandable reasons to describe people as 'Eastern Europeans' rather than Romanian. Mr. Feddis in his complaint suggests that RTÉ News may be engaged in *systemic racial discrimination* through the use of the phrase 'Eastern European'. RTÉ wishes in the strongest possible terms to refute such an unfounded allegation. RTÉ is scrupulously diligent in avoiding any racial discrimination in anything it broadcasts. RTÉ fully accepts Mr. Feddis's concerns as genuine and share his desire to ensure that no racial stereotyping takes place on the national airwaves. But RTÉ believes the report on 6 October did not include any stereotyping. Quite the contrary, a decision was taken to avoid any possibility of stereotyping by describing three convicted fraudsters as 'Eastern European' rather than as Romanian.

If RTÉ inadvertently uses any language or terminology which might contribute to stereotyping, and it is pointed out to the station, it will endeavour to avoid such language or terminology in the future. However, RTÉ does not think that the example cited by Mr. Feddis is of this nature.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that the report in question was about criminal gangs in Ireland that run

an ATM skimming fraud. In assessing this complaint, the opening line of the report must be taken in the context of the whole report. The news item did refer to the gang that were arrested by Gardai as Eastern European. The Commission noted that such a statement was factual and accurate. It was stated as matter-of-fact with no evidence that it was targeting or being racist against a particular group of people. It was factual and simply described the origin of the group.

When the whole report is considered, it was evident that there was a number of gangs from Eastern Europe operating such fraud schemes in Ireland. The members of such gangs come from various Eastern European countries. It is therefore reasonable to accept the news reporter's decision not to mention a particular Eastern European country. The Commission was of the opinion that the report was factually accurate and use of the term Eastern European was a statement of fact. There was no evidence of racism or intent to stereotype in this news report. The complaint was rejected with reference to Section 24(2)(a)(impartiality).

**5.55** *Complaint made by: Mr. Ultan Ó Broin*  
*Ref. No. 259/06*

**Station:** RTÉ TV1  
**Programme:** Seoige & O'Shea  
**Date:** 9 November 2006

### Complaint Summary:

Mr. Ó Broin's complaint, submitted under Section 24(2)(a)(impartiality), relates to comments made by the columnist, Kevin Myers, during an interview on this show. When discussing the possibility of the emergence of parties such as the BNP in Ireland, Kevin Myers allegedly said '*Sinn Féin voters tended to be racist*' and the '*majority of Sinn Féin are more racist than any other group of voters*'. The complainant claims that Mr. Myers offered no evidence of this other than an allusion to an unidentified "analysis done last month". The claim was not supported by any fact or reference to the source of this analysis, or the facts relating to any other party by name. Mr. Ó Broin believes the claim was slanderous and an example of partiality.

### Station's Response:

RTÉ in their response state that Mr. Ó Broin's complaint relates to some remarks made by a contributor to this programme. Kevin Myers, columnist with the Irish Independent was asked about political life throwing up

a racist demagogic leader if there was a downturn in the economy and immigrants were scapegoated. Mr. Myers had already opined that party politics in Ireland was based on tribal politics and that Sinn Féin killed people when they threatened the tribe. In response to the question about a demagogic leader, he said that Sinn Féin voters tend to be racists. The presenter, Joe O'Shea, challenged Mr. Myers' assertion and Mr. Myers replied by saying that a survey had shown Sinn Féin voters were most likely to be racist. The views that Mr. Ó Broin objects to are those of a contributor to the programme. They are not the views of either the interviewer or RTÉ corporately. As the Commission is aware RTÉ does not hold "corporate views" on political issues. A broadcast that includes the views of a contributor is not a partial broadcast. It is simply a contribution to public debate. Mr. Myers was exercising his democratic right to express his views, something he does in a very forthright manner everyday in his column. RTÉ believe that it would be ludicrous to argue that the inclusion of robust political debate in current affairs programming was in breach of statutory requirements in regard to impartiality.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The context of the discussion was the publication of a survey on racism in Ireland. The panellists and presenters discussed racism and immigration in an Irish context and then considered what would happen to racial integration and relations if the economy took a downturn. In response to this question, the Commission notes that Mr. Myers did make the comment as submitted by the complainant. However, he was immediately challenged by one of the presenters, Mr. Joe O'Shea. The presenter clearly indicated that such a statement was not appropriate or fair. Mr. Myers subsequently put his response into context.

This was a live discussion during which a panel member gave an opinion. The opinion was immediately challenged. In the opinion of the Commission this panel discussion was fair and impartial. The views expressed by the panellists were questioned and challenged in a balanced manner. The complainant also asserts that the comments were slanderous. However, the complainant was never mentioned in the course of the programme nor was there any evidence of an assertion which constituted an attack on the honour or reputation of any individual. Therefore, the category 24(2)(f)(slander) does not apply to the complaint as submitted. The complaint was rejected with regard to Section 24(2)(a)(impartiality).

## Taste & Decency

**5.56** *Complaint made by: Mrs. Ursula O'Sullivan*  
*Ref. No. 182/05*

**Station:** Cork's 96FM  
**Programme:** Neil Prendeville Show  
**Date:** 29 September 2005

### Complaint Summary:

Mrs. O'Sullivan's complaint, submitted under Sections 24(2)(a)(impartiality) and (b)(taste & decency), refers to an interview during a broadcast of the 'Neil Prendeville Show'. She states that the presenter handled the interview with Rose Hannon in an insensitive manner. To the best of her knowledge he stepped outside the parameters that Ms. Hannon was given to understand were to form the basis of the interview. As well as this, he persisted in a line of insensitive questioning which gave the impression that he had not researched the subject beforehand. Having spoken to the woman in question since the interview, the complainant witnessed first hand the distress that this line of questioning caused her and feels, at the very least, that this employee should be sanctioned.

The complainant forwarded copies of all the complaint correspondence to Mrs. Rose Hannon. Mrs. Hannon subsequently responded to the broadcaster's response and stated the following: that the station led her to believe the discussion would relate to her position as Chairperson of the Cork Advocacy Network (CAN) which would include questions about CAN itself, 'mental illness' and stigma and the awareness fundraising auction to be held in November. The producer asked her would she answer a few brief questions on the recent suicide of her son, and she quotes that he said 'nothing too personal, they would be fairly general', to which she agreed. The station phoned her on the morning of the broadcast in question. However, the presenter gave the impression she had phoned in. The presenter immediately went into in-depth questioning on the suicide and her son. To ask on-air without warning how her son had killed himself, was most discourteous and unprofessional. The presenter then continued to question further asking if she considered she had taken part in an assisted suicide. That afternoon she phoned the presenter and complained that the interview was totally out of context to what she was led to believe and to what she was told it would be about, to which he answered, 'you agreed and if you are not happy you can complain to the management company'. She states



that she wanted to be reasonable and justified if she was to make a complaint so she phoned the station at a later date and requested a copy of the interview only to be denied. In her opinion, the line of questioning throughout the interview could be deemed as voyeuristic and appeared to be designed to capture the listener's attention by pure sensationalism; without consideration or sensitivity for her family at the loss of her son who suffered from the stigma and indignity of Schizophrenia.

### Station's Response:

Cork's 96FM state that they were contacted by Rose Hannon's daughter by e-mail in which she outlined both her brother's suffering from mental illness as well as her mother's involvement in the Cork Advocacy Network which supports sufferers and carers of the psychiatrically challenged. In her e-mail, she suggested that her mother would like to come on the 'Neil Prendeville Show' to discuss the topic. The station called Shirley who provided them with her mother's 'phone number. The station subsequently rang Rose Hannon and she confirmed she was willing to discuss her son's illness and suicide on air. They arranged to call her back during the show to discuss her topic and this happened on 29 September.

The topic discussed was obviously a very emotional one but also one in which Rose Hannon was not only a willing participant but also the instigator. The broadcaster believes it is not clear from the complaint in what capacity Ms. O'Sullivan is making the complaint or the precise nature of the complaint in the absence of this they can only rely as above.

A copy of the subsequent correspondence from Mrs. Hannon was forwarded to the broadcaster for response. The broadcaster would re-iterate that they were approached by Shirley Hannon who requested that they 'bring up the issue of manic depression and other psychiatric illness'. They dealt with the matter on-air and to the best of their ability dealt with it in a fashion as agreed thereby creating the awareness as requested.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint made by Mrs. Ursula O'Sullivan has been rejected with reference to Sections 24(2)(a)(impartiality) and (b)(taste & decency) of the Broadcasting Act, 2001. This interview was based on a human interest story, during which the interviewee articulated the significant issues facing people, and their families, with mental illness. The interviewee was questioned about the suicide of her son. The

Commission acknowledged the gravity and sensitivity of this suicide for the interviewee, her family and for many listeners. However, the Commission was of the opinion that in the context of the interview overall, the issue of mental illness was addressed in a fair and balanced manner. The interview succeeded in raising awareness, and informing the listener, of mental illness. The presenter facilitated a fair and balanced interview. The Commission did note that there was an element of insensitivity to a few of the questions the presenter asked. However, the overall tone and content of the interview was respectful and could not be considered offensive. The complaint was rejected.

**5.57** *Complaint made by: Mr. Nicholas Healy*  
Ref. No. 204/05

**5.58** *Complaint made by: Mr. Kevin Mullen*  
Ref. No. 209/05

**5.59** *Complaint made by: Mr. Bill Anderson*  
Ref. No. 214/05

**5.60** *Complaint made by: Mr. & Mrs. McDonald*  
Ref. No. 216/05

**5.61** *Complaint made by: Mrs. Mary Stewart*  
Ref. No. 220/05

**5.62** *Complaint made by: Mr. Oliver Mulholland*  
Ref. No. 227/05

**Station:** RTÉ TV1  
**Programme:** The Late Late Show  
**Date:** 11 November 2005

### Complaint Summary:

**Mr. Healy's** complaint, under Section 24(2)(b)(taste & decency), refers to an interview with Mr. Tommy Tiernan. He states Mr. Tiernan's contempt for all those viewers opposed to his crude and vulgar language was blatantly obvious with Mr. Tiernan's tirade of abuse, "F\*\*\* the Begrudgers". Mr. Healy is appalled at Mr. Kenny's weak and childish handling of his interview with Mr. Tiernan, unable to conduct a civilized conversation enjoyable to all. It is quite obvious RTÉ and Mr. Kenny learned nothing from their previous encounters with Mr. Tiernan and paid little or no attention to the outcome of the Broadcasting Complaints Commission's ruling on a previous occasion. Such was RTÉ and Pat Kenny's dismissive attitude that they were unable or unwilling to offer an apology.

**Mr. Mullen's** complaint, submitted Section 24(2)(b)(taste & decency), refers to an interview with Mr. Tommy Tiernan on 'The Late Late Show'. He states the comments by Mr. Tiernan made insulting reference to the "Lamb of God". RTÉ are relentless in their criticism of the Catholic Church. RTÉ are the most anti-Catholic media group in Western Europe. He found the remarks very hurtful. He was also dismayed at the lack of respect shown towards the Broadcasting Complaints Commission both by RTÉ, who allowed such remarks, and by Mr. Tiernan who was critical of the Commission. He believes Pat Kenny should have stopped the interview. By not doing so, he condoned the offensive remarks made. He also seemed to find them quite funny.

**Mr. Anderson's** complaint, submitted under Section 24(2)(b)(taste & decency), refers to an interview with Mr. Tommy Tiernan on 'The Late Late Show'. He states that the outburst by Tommy Tiernan of vulgarity and crudity is most unacceptable to decent viewing. His outrage against those who objected to his remarks on his last appearance on the show displayed his contempt for those who possess the right to object to scurrilous humour and remarks being broadcast on RTÉ. He states that there are certain people in RTÉ who are incapable of making acceptable decisions for the viewers. He is concerned at the trend 'The Late Late Show' is taking. Tommy Tiernan is an able comedian, but his vulgarity and crudity mars his obvious talents.

**Mr. & Mrs. McDonald's** complaint, submitted under Section 24(2)(b)(taste & decency) of the Broadcasting Act 2001, refers to an interview with Mr. Tommy Tiernan on 'The Late Late Show'. They state that his language was unacceptable and the content of his presentation was even more unacceptable. This smut is available in clubs and if some people want to hear it and know, in advance, what they are going for, then that is fine for them. 'The Late Late Show' is a family show and on Friday nights, many children are allowed to watch it. It is not good enough to have this type of material foisted on them by any comedian and they are asking that this does not happen again.

**Mrs. Stewart's** complaint, submitted under Section 24(2)(b)(taste & decency), refers to an interview with Mr. Tommy Tiernan on 'The Late Late Show'. She states she wishes to complain in the strongest possible terms at the handling by Pat Kenny of the interview with Mr. Tiernan. This programme comes under the heading of entertainment. She asks 'what entertainment is there in the ridiculing of the Catholic faith?' This programme was offensive to Catholics and was actually blasphemous. If such insults had been broadcast against the Muslim faith, what would have been the reaction?

Mr. Mulholland's complaint, submitted under Section 24(2)(b)(taste & decency), refers to an interview with Mr. Tommy Tiernan. He states every time this character appears on RTÉ (usually 'The Late Late Show'), he goes over the top:

1. Vulgarity and use of the F word.
2. Derogatory remarks about the Catholic Religion.
3. Inflammatory remarks about the Catholic Clergy.

The remarks regarding the 'Lamb of God' were the lowest of the low.

### Station's Response:

RTÉ in their response state that the 'Late Late Show' has a long standing tradition of inviting Ireland's most popular comedians onto the programme. Tommy Tiernan, if one is to judge from attendances at his live shows and the sales of his DVDs, is probably the most popular comedian performing in Ireland. The average audience this season for the programme is around 600,000. The number of people watching the show on 11 November, when Tommy Tiernan appeared, was 792,000. Given this level of popularity it is not unexpected that he would be invited onto the programme.

In October 2004, Mr. Tiernan was the first guest to appear on the programme in part one, appearing shortly after 9.30pm. This time his appearance was scheduled to take place in part three of the programme and as a result it was after 11.00pm when he appeared. It is RTÉ's view that the acceptability of the use of expletives in a section of a programme broadcast after 11.00pm is quite different than that broadcast earlier in the evening. Mr. Tiernan was asked before the broadcast to moderate his use of expletives and he did so. The number of expletives was no greater than is found on other programmes broadcasting at this hour of the night.

Mr. Tiernan's rights to freedom of expression and his right to artistic freedom in pursuit of his profession have to be balanced against a section of the audience who dislikes his humour and who takes offence at his jokes. There can be few members of the public who are unfamiliar with Tommy Tiernan's approach to humour. His appearance on the 'Late Late Show' was signaled well in advance, both in newspapers and in broadcasts. Those who disliked his views could have chosen not to watch him. Instead many clearly watched him and complained afterwards. In effect they are saying, not alone do they not want to be exposed to Tommy Tiernan's humour, they don't want other people to be exposed.

Many of Tommy Tiernan's jokes are anti-clerical. During the course of the interview he told a small number of relatively gentle anti-clerical jokes. Objections are raised about his jokes, yet equivalent jokes by other performers on other programming would not receive the same outcry. When the Members of the Commission view the programme they will not hear any level of anti-clericalism which goes beyond the acceptable or strays into the grounds of unfairness. Though some members of the audience may disagree it is RTÉ's view that the vast majority of the audience would not have been offended by Tommy Tiernan's remarks about religious matters.

In relation to the BCC, it is a statutory body established amongst other things to adjudicate on taste and decency issues. This makes it quintessentially a part of the establishment and therefore, a suitable body for Tiernan's brand of ridicule. For the programme presenter to raise the issue of the BCC's decisions to uphold complaints against Tiernan was simply a recognition that this had been a significant event in the comedian's life over the last twelve months and provided a peg for Tiernan to make fun at another establishment institution.

RTÉ believes that the time of transmission, the moderated language and humour evident on this occasion put this performance in quite a different league than his appearance twelve months ago. They believe that the complaint is based on a profound dislike of what Mr. Tiernan stands for and that to uphold this complaint would be bad for the important principles of freedom of expression and the rights of artists to explore and extend their craft.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint made by Mr. Nicholas Healy has been rejected with reference to Section 24(2)(b)(taste & decency) pursuant to RTÉ's 'Programme-Makers' Guidelines'. The Commission noted the time of the broadcast and that the interview was scheduled in part three of the programme. Also, the viewers were informed that the next guest was Tommy Tiernan and that he had caused a bit of a stir on a previous appearance on the show. Viewers therefore were afforded the opportunity to decide whether to watch this segment of the show. The Commission was further of the opinion, that the content was reasonably moderated and while the humour may not have been to all tastes, it was acceptable and unlikely to cause

widespread offence. The presenter interceded during the course of the interview to curb the use of language by Tommy Tiernan, thereby ensuring adherence to acceptable standards. In light of the time of the broadcast of this section of the 'Late Late Show', the moderated use of language and the context of the humour, this interview was within acceptable standards. With regard to the comments concerning the BCC, the interviewee was entitled to have an opinion on a decision made by the BCC, a public service organisation. That the opinion was negative does not make it offensive. The context and style of the presentation of his view, which was both serious and comedic, could not have been considered offensive to the Commission. The complaint was rejected.

**5.63** *Complaint made by: Ms. Claire Forrestal  
Ref. No. 241/05*

**Station:** RTÉ 2  
**Programme:** Podge and Rodge: A Scare at Bedtime  
**Date:** 28 November 2005

### Complaint Summary:

Ms. Forrestal's complaint, submitted under Section 24(2)(b)(taste & decency), relates an episode of the series 'Podge and Rodge' entitled 'Two Timer'. She states she is an open-minded 26 year old and that she has never made a complaint to the BCC before, but felt compelled to in this instance. Although the programme was broadcast at 11p.m., the content was extremely distasteful especially considering the prevalence of suicide in rural communities. In her opinion, the image of male siamese twins hanging in a hayshed offended good taste and decency. She further states that she has a good sense of humour but there was nothing funny about the inappropriate treatment of a very serious issue.

### Station's Response:

RTÉ in their response state that this series has been broadcast on RTÉ 2 since 1997. It is a light-hearted, vulgar and whimsical puppet series in which stories are told. The episode broadcast on 28 November was little different from all the other episodes which have been broadcast. The story was a kind of folk tale with a young country girl on her way to the creamery meets a boy who gives her an apple. They meet each morning until the girl follows the boy home to discover that in fact the boy is a two-headed creature. She is horrified, but confronts the creature. The next day she returns to find

the two-headed creature has committed suicide. As she falls upon the ground it emerges that she too is a two-headed creature. But it is too late, her perfect match has died. The story is told with the usual 'Podge and Rodge' colourful language. There is nothing in this programme which is broadcast at 11p.m. which its regular audience would not expect. It is RTÉ's view that the language in the programme would offend none of the programme's regular viewers and that any unsuspecting member of the audience who comes upon that programme will judge it to be a harmless piece of fun. Broadcast at it is two hours after the beginning of the watershed it is extremely unlikely this programme will offend many viewers. There is nothing wrong with some earthy vulgar use of language in context. In this case the context of two crabby wizen puppets telling scary stories.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint made by Ms. Claire Forrestal has been rejected with reference to Section 24(2)(b)(taste & decency) pursuant to RTÉ's 'Programme-Makers' Guidelines'. In reaching this decision, the Commission was of the opinion that when the scene in question was viewed in the context of the programme it was not offensive. The broadcast piece was in keeping with the tragic-comedy nature of the story being told. The Commission is aware of the gravity and sensitivity associated with suicide. However, in the context of this broadcast, the scene was unlikely to cause widespread offence. The complaint was rejected.

**5.64** *Complaint made by: Mr. Raymond Deane*  
Ref. No. 250/05

**Station:** RTÉ TV1  
**Programme:** The Late Late Show  
**Date:** 18 November 2005

### Complaint Summary:

Mr. Deane's complaint, under Section 24(2)(a) (impartiality), refers to an interview with Walid Shoebat on 'The Late Late Show'. He states that anybody familiar with the shady world of apologists for the illegal Israeli occupation of Palestinian territories, Shoebat and his "agent" Keith Davies are familiar figures, and are regarded as something of a sinister joke. A little research should have revealed this fact. Shoebat's own website demonstrates that his activities are heavily endorsed by extreme US neo-conservatives such as Frank Gaffney. Mr.

Shoebat was allowed to make all kinds of outrageous claims and assertions that were detrimental to Palestinians, to Arabs and to Muslims in general, without Mr. Kenny once querying his sources or his authority. Mr. Kenny himself stated: *"What is the future, though, I mean, if you've got, they say, 250 million people [Shoebat interjects: Yes]...who want an end to Western civilisation"*. The context implied very clearly that Mr. Kenny was referring to Muslims. It was unclear where he got the figure of 250 million, and what his grounds for making the claim were. This was an assertion calculated to inflame feelings further against Muslims.

### Station's Response:

RTÉ in their response state that Mr. Shoebat was introduced by the programme presenter, Pat Kenny, in the following manner *"What goes through the mind of a suicide bomber?...Walid Shoebat was a terrorist.... he can understand the mindset of a bomber"*. It is RTÉ's view that the interview was conducted in a completely impartial manner and that at no time did Mr. Kenny express any of his own views. The introduction was not misleading. The presenter gave the guest the opportunity to express his views on the Islamic world. Mr. Kenny did not indicate his agreement or disagreement with the views Mr. Shoebat expressed. He allowed members of the audience to hear what Mr. Shoebat had to say and to make up their own minds. Viewers' judgements are not based on hearing a single interview. Knowledge and understanding is acquired over time. Members of the public utilize already accumulated understanding and knowledge of events in assessing what they are hearing. In this particular case, the audience would have already heard the former UN Commissioner on Refugees and Irish President Mary Robinson on the same programme explaining how the West has a lot to learn from Islamic traditions.

RTÉ, through the presenter of the programme adopted an entirely neutral attitude to what Mr. Shoebat was arguing. What Mr. Deane interprets as the programme being partial is actually his disagreement with the views expressed by Mr. Shoebat. Mr. Shoebat is as entitled as anyone else to express his views. This is the basis of freedom of speech and freedom of expression. RTÉ is absolutely committed to presenting an inclusive understanding of contemporary Irish society and would not allow anything to be broadcast which could undermine tolerance and inclusion. In this instance, they do not believe that allowing Mr. Shoebat to express his views did encourage racist or hatred.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint made by Mr. Raymond Deane has been rejected with reference to Section 24(2)(a)(impartiality) of the Broadcasting Act 2001. This complaint relates to the segment of the programme in which a guest, Mr. Walid Shoebat, spoke about his life and his opinions on the Islamic world. The viewer was made aware that Mr. Shoebat was a former terrorist. The viewer was also aware that the views and opinions expressed were from his own perspective. To explore the work of a prominent individual is a legitimate editorial decision for a broadcaster to make. This programme regularly interviews well-known people about their lives. The viewer is left to make his/her own judgement. The presenter let Mr. Shoebat tell his story. The presenter's style was relaxed and impartial and the tone of the interviewer was at all times temperate. While the Commission would acknowledge that the wording of the particular sentence in question was regrettable, the manner in which it was asked, and given the context of the whole interview, did not give rise to partiality or bias on behalf of the presenter. The Commission was of the opinion that the question was asked during this live broadcast simply to elicit information from the interviewee. The complaint was rejected.

**5.65** *Complaint made by: Mrs. Miriam O'Regan*  
*Ref. No. 253/05*

**Station:** RTÉ TV1  
**Programme:** You're a Star  
**Date:** 4 December 2005

### Complaint Summary:

Mrs. O'Regan's complaint, submitted under Section 24(2)(b)(taste and decency), refers to a panel member on the programme gratuitously using the name of 'Jesus' as an expression of surprise. As a Christian, Mrs. O'Regan found this offensive and particularly so because children watch programmes at this time of the evening as were her own children. The complainant suggests that perhaps a bleeping system could be used in such cases?

### Station's Response:

RTÉ in their response state that it wishes to avoid giving offence. However, the Holy Name is frequently evoked as an exclamation in everyday speech in Ireland today. This appears to be acceptable for the great majority of people but to others, including Mrs. O'Regan, this use of the Holy Name is offensive.

The essence of 'You're a Star' is an old-fashioned talent contest where aspiring singers perform in front of a jury who comment on their ability and performance. This frequently involves quite forceful assertions of enthusiasm or lack of same for individual singers. Sometimes this response can involve quite colourful comments about individual's abilities or performances. RTÉ does not wish to inhibit this aspect of the programme. The judge in question, Brendan O'Connor, in his uninhibited everyday speech, frequently uses the word 'Jesus'. He does so in a manner that is not derogatory. RTÉ believes that very few viewers would be offended by the way he uses the word 'Jesus'.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint made by Mrs. Miriam O'Regan has been rejected with reference to Section 24(2)(b)(taste & decency) pursuant to RTÉ's 'Programme Makers' Guidelines'. The Commission was of the opinion that the word was used in an innocuous and inoffensive manner. It was simply used to reflect his feeling of surprise. Also, the tone and manner of the remarks were in keeping with the style of the programme. They were not said in a gratuitous manner and therefore, unlikely to cause widespread offence. The complaint was rejected.

**5.66** *Complaint made by: Ms. Ann-Maria Feeney*  
*Ref. No. 06/06*

**Station:** RTÉ 1  
**Programme:** Fair City  
**Date:** 8 January 2006

### Complaint Summary:

Ms. Feeney's complaint, submitted under Section 24(2)(b)(taste & decency), refers to the programme Fair City and their constant portrayal of taxi drivers as racist bigots. Ms. Feeney has two family members working in the industry who are honest, hardworking considerate citizens. Both are hurt and offended about Fair City's

negative portrayal of their profession. In one episode, one of the characters referred to all taxi drivers as bigots who must attend “a bigot taxi training school” before they are allowed become a taxi driver. She takes offence at such discriminatory comments. She finds them to be biased, negligent and damaging in their sweeping generalization that all taxi drivers are racist bigots who must attend a “bigot taxi training school”.

### Station’s Response:

RTÉ in their response regrets that the remarks offended Ms. Feeney. Fair City is a drama whose brief is to reflect contemporary urban life in Ireland today. That means the series should contain within it characters who express all kinds of views and attitudes. One of the characters ‘Joshua’ is quite out-spoken and believes he is entitled to express his views forcefully. One of the views he expresses is hostile to taxi drivers. He is involved in a running row with a taxi driver over damage to a car. This character is fictional but he is a believable character. He has his strengths and his weaknesses. One of his weaknesses is the way in which he generalizes. A lot of people make sweeping generalizations. This is what happens in real life.

This character is not speaking on behalf of RTÉ. He is a fictional character in a fictional series. The person he is in conflict with, “Pete” could have been depicted as a plumber or a bank clerk or whatever. The scriptwriters chose to make him a taxi driver. This is not to say that all taxi drivers are racists. It is simply giving a fictional character an occupation.

RTÉ further state if a drama is to have impact it must include characters that are believable. It is RTÉ’s view that this character is believable and that his remarks about taxi drivers echo the kind of remarks made in the real world.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. ‘Fair City’ is a popular Irish soap, which is based on the lives of a fictional community in Dublin. It is important that the script-writers are permitted the freedom to develop the characters and storylines in the series. What is of importance to the Commission is that they do so within acceptable standards. The issue of racism is serious and distasteful. It is a part of every day life and this is reflected in the ‘Fair City’ storyline. The Commission was of the opinion that the behaviour portrayed in this broadcast was in keeping with the characters. Regular viewers would

understand the type of characters being portrayed. On viewing the programme, the behaviour was seen to be associated with the characters as opposed to their professions. Such is the nature of soaps. No evidence of any intention to be discriminatory was found in this particular episode. In light of the fact that ‘Fair City’ is a fictional series and that the behaviour is character based, the Commission was of the view that this broadcast was unlikely to cause widespread offence. Also, there was no evidence of gratuitous comments or content. The complaint made by Ms. Ann-Maria Feeney has been rejected with reference to Section 24(2)(b)(taste & decency, pursuant to RTÉ’s ‘Programme-Makers’ Guidelines’) of the Broadcasting Act, 2001.

**5.67** *Complaint made by: Mr. Patrick Walsh  
Ref. No. 07/06*

**Station:** RTÉ Radio 1  
**Programme:** Tonight with Vincent Browne  
**Date:** 15 December 2005

### Complaint Summary:

Mr. Walsh’s complaint, submitted under Section 24(2)(b)(taste and decency), refers to an item on the Vincent Browne programme. A participant in a discussion expressed regret that an unnamed individual (a member of the Government) had not died in 2005. The programme presenter, Mr. Vincent Browne, did not demur or disassociate himself from this remark. The presenter, a veteran journalist at broadcasting and print media and barrister had invited the contributors to name people “who should have died in 2005?” One female contributor resiled and expressed distaste for the exercise – this was in direct response to being asked the same question. He feels the discussion was inappropriate, distasteful and offensive to the listener not to mention the individual referred to and his family.

### Station’s Response:

RTÉ believe Mr. Walsh has failed to appreciate that the remarks that led to this complaint were made in jest and were no more than light hearted banter which prefaced a serious discussion about people who had died in 2005. The programme presenter, Vincent Browne, opened the programme by saying “we’re going to talk about people who died in 2005”. He then introduced the contributors in studio. He then said:

"It's hard not to be slightly frivolous about people who died in 2005 because Theo Dorgan wants to know can we talk about people who should have died, which is very unkind of you, Theo. Did you have anyone particularly in mind?"

Theo Dorgan replied:

"I have a very particular person in mind. He knows who he is. What was Myles (na Gopaleen) famous formulation? A present Minister in the government, a Minister in the present government who shall remain nameless"

This was followed by laughter. Dorgan then expressed the view:

"Myles has probably lost me my job on radio".

Vincent Browne then asked another contributor, Mary Raftery, for her view. Ms. Raftery replied:

"I feel that would be a terrible thing to say to wish somebody dead. But there are people you might wish to be in a bad place for a little while".

This was followed by more laughter and the presenter then returned to the topic under discussion, people who had actually died in 2005. RTÉ state it is clear from the transcript that all the references to people who should have died in 2005 were meant as jokes and that there was no intention of giving offence to anyone. RTÉ regret that Mr. Walsh found the remarks offensive, but believes that he failed to comprehend the tone of the remarks which were clearly not meant to be taken literally.

#### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The broadcast piece in question was light-hearted in manner and the tone was at all times gentle and humorous. While the content of the humour may not have been to all tastes, it was unlikely to cause widespread offence. In the context of the broadcast, the Commission believes that the issue was broached in a manner which was designed to amuse the listener, to entertain. It was told in a reasonably jocular and what the Commission believes to be a harmless manner with no evidence of gratuitous offence. The complaint made by Mr. Patrick Walsh has been rejected with reference to Section 24(2)(b)(taste & decency, pursuant to RTÉ's 'Programme-Makers' Guidelines') of the Broadcasting Act 2001.

**5.68** *Complaint made by: Ms. Patricia Ward  
Ref No. 11/06*

**Station:** RTÉ TV1  
**Programme:** 6.01 News  
**Date:** 28 October 2005

#### Complaint Summary:

Ms. Ward's complaint, submitted under Section 24(2)(b)(taste & decency), refers to an item carried on the RTÉ news bulletins at 6pm. The item on the news report covered a murder trial in Cork. The report stated that the victim was stabbed x times; beaten about the head x times and had his throat cut. She found this coverage very upsetting, disturbing and unnecessarily graphic. Ms. Ward does not understand the public information need that is being met by this type of news coverage. This type of coverage now seems to apply to all violent crimes.

#### Station's Response:

RTÉ in their response state that having viewed the report that led to Ms. Ward's complaint, it is RTÉ's submission to the BCC that there was no breach of programme standards in the report. RTÉ News were of the opinion that in order for viewers to fully appreciate the awfulness of the crime that led to the trial, the reporter had to inform viewers of the degree of violence that was perpetrated on the victim in a robbery that netted €350. There was nothing gratuitous in the report. It was a sober and necessarily detailed report of a crime. RTÉ cannot sanitise news because viewers may get upset. The news editors are conscious that news reports broadcast during the day and early evening may be viewed by younger viewers and precautions are taken to avoid excessive details which some viewers might find upsetting. RTÉ's Southern Editor, Pascal Sheehy, was most careful in avoiding being excessive in his descriptions. Anyone who views the report could not possibly believe there was anything gratuitous in the manner of the reporting.

#### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The report dealt with a murder trial and included the details of the crime committed by the defendant. The Commission would acknowledge that the details of the report were appalling. However, the news report was factual and based on the evidence

revealed in the Courts. Also, the tone of the report was at all times reserved and serious. The Commission was of the opinion, that the factual nature of the report, and the reserved and matter of fact tone of the presentation, was unlikely to cause widespread offence. The complaint made by Ms. Patricia Ward has been rejected with reference to Section 24(2)(b)(taste & decency, pursuant to RTÉ's 'Programme-Makers' Guidelines') of the Broadcasting Act 2001.

**5.69** *Complaint made by: Mr. Maurice Fitzgerald  
Ref No. 13/06*

**Station:** RTÉ 2  
**Programme:** Joy in the Hood  
**Date:** 16 January 2006

### Complaint Summary:

Mr. Fitzgerald's complaint, submitted under Section 24(2)(a)(impartiality) and (b)(taste & decency, law & order), refers to the programme 'Joy in the Hood'. Mr. Fitzgerald complains that this show was vulgar and obscene in the extreme, using many highly offensive swear words in a most forceful and offensive way and without any restriction or control. No sufficient pre-broadcast warning was issued to the public. The broadcast was presented as a comedy show however, Mr. Fitzgerald states that this was not comedy but a sick twisted form of stupor designed to outrage rather than amuse. He believes RTÉ are guilty of fostering a feature culture of obscenity given the nature of the programme. Derogatory references were made in the broadcast to people and organisations which amounted to incitement to hatred. Mr. Fitzgerald also states that some children could have been watching the programme and it was totally unsuitable for them. Furthermore, young children were seen up on the stage involved in extreme vulgarity, repugnant to the Constitution and the Broadcasting Acts which refer to blasphemous and incitement to hatred. These children could be seen as jobs by the general public which may seriously affect their employment prospects. Mr. Fitzgerald believes RTÉ have acted recklessly and in an illegal manner by airing this programme.

### Station's Response:

RTÉ in their response state that the 'Joy in the Hood' is a short series of programmes in which a well-known stand-up comedian takes a few of 'amateur' comedians and trains them for three weeks before they make their first stand-up performance. The programmes centred

on communities which have a reputation for social disadvantage. The producers of the series intended the programmes to provide a platform for voices from within these communities. The view was that through comedy viewers would get a better insight into these communities and would see that many of the stereotype images of these areas would not be representative of most of the people and their everyday experience.

A decision was taken that the programmes would be broadcast post-watershed in a strand of comedy programmes. 'Joy in the Hood' is followed by 'Stew' and 'Anonymous'. Viewers of these programmes would know that they are geared towards a young adult audience familiar with contemporary stand-up comedy. RTÉ 2 has been developing indigenous comedy in recent years. That comedy frequently contains strong language which some viewers may find offensive. It is RTÉ's view that the audience knows this to be the case and can exercise their own discretion in deciding whether or not to view such programmes. It is the nature of comedy that different genres are not going to find universal approval and that some people are going to find some comedy humourless whilst other views will find the same comedy very funny.

RTÉ reject all of Mr. Fitzgerald's complaints. RTÉ would acknowledge that it was not to everyone's taste. But it has proven to be a very popular programme with an average audience of 297,000 viewers for each programme. The programme was broadcast after 9 p.m.. The audience is familiar with the concept of the watershed, that programming broadcast after this time may contain material that is not suitable for younger viewers.

The programmes were a serious attempt to both entertain an audience and simultaneously provide a voice to communities who are frequently not heard in the national media. In viewing the programme, RTÉ is confident that the Commission members will take into account the target audience, the lives and the experiences of the people in the programmes and the purposes for which the programmes were made.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. This series concerned the search for local people in a few particular disadvantaged areas to participate in a comedy gig. In this particular broadcast, the show was based in Knocknaheeny in Cork and the viewer followed the progression of the five participants.



The way of life of the local community was explored and reflected in the programme. The tone and manner of the programme was both comic and serious. It was at no time gratuitous and there was also no evidence of incitement to hatred in this broadcast. The Commission would acknowledge that there was swearing during the programme. However, the swearing was part of the vernacular of the participants of the show, an integral part of their manner of speaking. While such language, and the humour, may not have been to all tastes, in the context of the programme and the time of broadcast, it was within acceptable standards. The Commission would note that in keeping with RTÉ's Programme Makers' Guidelines, and in particular, the 'watershed graduation period', a rider warning viewers that a programme broadcast at this time will contain strong language should be broadcast prior to airing. The complaint made by Mr. Maurice Fitzgerald has been rejected with reference to Sections 24(2)(a)(impartiality) and (b)(taste & decency (pursuant to RTÉ's Programme Makers' Guidelines), law & order) of the Broadcasting Act 2001.

**5.70** *Complaint made by: Mr. & Mrs. Kevin G. A. Smith Ref. No. 14/06*

**Station:** RTÉ TV1  
**Programme:** The Dubs – the Story of a Season  
**Date:** 16 January 2006

### Complaint Summary:

Mr. & Mrs. Kevin and Rosaleen Smith's complaint, submitted under Section 24(2)(b)(taste & decency), refers to a programme broadcast on RTÉ TV1, 'The Dubs – the Story of a Season'. The complainants were deeply concerned at the continuous and gratuitous use of expletives (commonly described as of the 'f' word kind). It seemed that virtually every sentence uttered contained such offensive language.

### Station's Response:

RTÉ submits that 'The Dubs – a Story of a Season' is a documentary that takes viewers behind the scenes to see the players training, in the dressing rooms, on the bus, on the field of play etc. The programme was broadcast at 9.30 p.m., a half hour after the beginning of the watershed. Therefore, it was broadcast at a time when parents would be alerted to the possibility that programming might not be suitable for their children. This programme was preceded by a rider warning viewers that it contained strong language. The wording used was as follows:

'Now in a fly-on the wall documentary...we see the Dubs being put through their paces in the battle for the Sam Maguire....'

Viewers are advised that this programme contains strong language from the start'

It was felt that parents could make up their own minds about whether or not they wanted their children to continue viewing and if they did, their children would be exposed to strong language. Most viewers familiar with the language used by football teams on the sideline and in the training grounds would have had an expectation that there would have been expletives included in the programme and would not have been surprised or offended by what they heard.

RTÉ regrets that the Smiths were offended by the broadcast. However, it is RTÉ's view that the inclusion of the expletives that has caused the Smiths' offence was legitimate given the time of the broadcast, the presentation announcement and the nature of the subject matter of the programme.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The programme covered the involvement of the Dublin football team in the GAA's 2005 All Ireland Football Championship. Included were scenes from training sessions and the dressing rooms on match days. The Commission noted the use of strong language mainly by the management team in these scenes. While it is accepted that some viewers find such language offensive and difficult to listen to, the Commission also acknowledges it as part of the vernacular used during football training, team talks and the like. Given that this was a documentary profiling real life scenes of the Dublin football team, the use of strong language was not considered gratuitous. While strong language was used by team management in "real life scenes", in the course of the interviews for the programme, and in the presentation, the use of such language was not evident. The Commission also noted the time of the broadcast and that an information announcement prior to the broadcast warning viewers about the strong language was aired. This provided viewers with the necessary information to make an informed decision whether to watch the programme. In the opinion of the Commission, this broadcast was within acceptable standards. It reflected realistically and non-gratuitously the endeavours of the Dublin Football team during the 2005 Football Championship. It was broadcast post

watershed and viewers were made aware of the strong language content. This broadcast was unlikely to cause widespread offence. The complaint was rejected with reference to Section 24(2)(b)(taste & decency, pursuant to RTÉ's 'Programme-Makers' Guidelines').

**5.71** *Complaint made by: Mr. & Mrs. Kevin G. A. Smith Ref. No. 15/06*

**Station:** RTÉ 2  
**Programme:** Joy in the Hood  
**Date:** 16 January 2006

### Complaint Summary:

Mr. & Mrs. Kevin and Rosaleen Smith's complaint, submitted under Section 24(2)(b)(taste & decency), refers to a programme in the series 'Joy in the Hood' broadcast on RTÉ 2. The complainants were deeply concerned at the continuous and gratuitous use of expletives (commonly described as of the 'f' word kind). It seemed that virtually every sentence uttered contained such offensive language.

### Station's Response:

RTÉ in their response state that 'Joy in the Hood' is a short series of programmes in which a well-known stand-up comedian takes a number of 'amateur' comedians and trains them for three weeks before they make their first stand-up performance. The programmes centred on communities which have a reputation for social disadvantage. The producers of the series intended the programmes to provide a platform for voices from within these communities. The view was that through comedy viewers would get a better insight into these communities and would see that many of the stereotype images of these areas would not be representative of most of the people and their everyday experience.

A decision was taken that the programmes would be broadcast post-watershed in a strand of comedy programmes. 'Joy in the Hood' is followed by 'Stew' and 'Anonymous'. Viewers of these programmes would know that they are geared towards a young adult audience familiar with contemporary stand-up comedy. RTÉ 2 has been developing indigenous comedy in recent years. That comedy frequently contains strong language which some viewers may find offensive. It is RTÉ's view that the audience knows this to be the case and can exercise their own discretion in deciding whether or not to view such programmes. RTÉ believes there is

latitude available in programming broadcast after the watershed which permits certain kinds of programmes to be transmitted. In context this may include programming which contains language some viewers find unacceptable.

In viewing the programme, RTÉ is confident that the Commission members will take into account the target audience, the lives and the experiences of the people in the programmes and the purposes for which the programmes were made.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. This series concerned the search for local people in some particular disadvantaged areas to participate in a comedy programme. In this particular broadcast, the show was based in Knocknaheeny in Cork and the viewer followed the progression of the five participants. The way of life of the local community was explored and reflected in the programme. The Commission would acknowledge that there was swearing during the programme. However, the swearing was part of the vernacular of the participants of the show, an integral part of their manner of speaking. While such language and humour, may not have been to all tastes, in the context of the programme and the time of broadcast, it was within acceptable standards. The Commission would note that in keeping with RTÉ's Programme Makers' Guidelines, and in particular, the 'watershed graduation period', a rider warning viewers that a programme broadcast at this time will contain strong language should be broadcast prior to airing. The complaint made by Mr. & Mrs. Smith has been rejected with reference to Section 24(2)(b)(taste & decency (pursuant to RTÉ's Programme Makers' Guidelines), law & order) of the Broadcasting Act 2001.

**5.72** *Complaint made by: Mr. David Marlborough Ref. No. 16/06*

**Station:** RTÉ Radio 1  
**Programme:** Rattlebag  
**Date:** 19 January 2006

### Complaint Summary:

Mr. Marlborough's complaint, submitted under Section 24(2)(b)(taste and decency, pursuant to RTÉ's 'Programme-Makers' Guidelines'), refers an excerpt from a new Paul Mercier play broadcast in the afternoon.

Mr. Marlborough states that of all the excerpts RTÉ could have chosen they picked one with a mention of “sucking his cock”. This may be fine for an evening or night time slot but not 3 o’clock in the afternoon. There was no need to choose this particular excerpt so a conscious decision was taken by somebody to pick this one which the complainant cannot conceive of any good reason. Mr. Marlborough believes this type of thing reflects a distinct drop in standards and as recently as 10 years ago this would not have been deemed acceptable. Apparently, there is an ‘anything goes’ type of attitude on radio/tv in recent years, which if it goes unchecked, makes the mind boggle as to what we will be forced to endure in the future.

### Station’s Response:

RTÉ in their response state the production team responsible for the Rattlebag programme recorded extracts from the play for inclusion in the programme. Those extracts were edited to ensure that strong language was not included. Unfortunately by error one of the extracts was broadcast was a pre-edit version which included the offending remark. As soon as the error was noticed, the producer of the programme contacted the Director of Radio and the RTÉ Communications Department and said that if complaints were received an explanation should be given and an apology issued. If Mr. Marlborough had contacted RTÉ he would have been provided with an explanation and an apology. RTÉ fully accepts that the version that was included in the programme should not have been broadcast. Steps have been taken to ensure that a similar mistake does not occur again. RTÉ requests that Mr. Marlborough accepts their apology.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The broadcast item in question was a clip from a new play which was being reviewed on ‘Rattlebag’. The Commission would note the time of the broadcast. However, this is a programme aimed at adults. Also, the broadcaster has stated that the item was broadcast in error and they apologised to the complainant. The Commission is of the view that it was an unintentional error and that no gratuitous offence was intended. In light of the fact that the item was broadcast in error and the broadcaster’s subsequent actions, the Commission is of the opinion that the issue was resolved. Therefore, the complaint was rejected with reference to Section 24(2)(b)(taste & decency, pursuant to RTÉ’s ‘Programme-Makers’ Guidelines’).

**5.73** *Complaint made by: Mr. John Whelan  
Ref. No. 20/06*

**Station:** TV3  
**Programme:** News  
**Date:** 10 January 2006

### Complaint Summary:

Mr. Whelan’s complaint, submitted under Section 24(2)(b)(taste & decency), refers to the use of graphics during a news report on TV3. He submits that in reporting on the sexual relationship of an ordained priest in Galway diocese the station used graphics representing the rosary beads and the bible/breviary which are sacramentals and their use in this manner is in his view profane and offensive.

### Station’s Response:

TV3 in its response states that the news bulletin concerned the coming into the public domain of a relationship between an elderly priest and a younger woman. It was therefore entirely within context that material relating to the context of this story be used. Further, in regard to editorial justification TV3 believes that the use of religious imagery in the context of a story about a priest behaving in a way not consistent with expected norms is appropriate and entirely within accepted European norms and standards.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The news report dealt with the story of a 73 year old priest who had fathered a child with a 31 year old woman. The report included images of the priest; his local village; his parish church; the church of a former parish of his; and interviews with some of his golfing friends. The Commission noted that the imagery and the interviews related directly to the news item. The report was factual and the imagery used reflected the facts of the report. The Commission did not consider that the content of the news report gave rise to the matters of complaint raised by the complainant. There was no evidence of offensive use of religious imagery in the report. The complaint was rejected with reference to Section 24(2)(b)(taste & decency) of the Broadcasting Act 2001.

**5.74** *Complaint made by: Mr. Declan McKenna*  
*Ref. No. 24/06*

**Station:** RTÉ TV1  
**Programme:** You're a Star  
**Date:** 8 January 2006

**Complaint Summary:**

Mr. McKenna's complaint, submitted under Section 24(2)(b)(taste & decency), refers to a broadcast of the 'You're a Star' programme on RTÉ TV1. It relates to the comments made by Mr. Brendan O'Connor to Ms. Linda Martin, both of whom were on the judging panel. He watched the programme for about twenty-minutes. He states that Linda Martin said she was 'energised' by one of the performances. Brendan O'Connor responded by saying it was his view that by the look of Linda Martin it was probably a number of years since she had been energised. Brendan O'Connor also made derogatory comments about Ms. Martin's top. He also responded in another derogatory fashion when the presenter asked him if a particular performance was OK with him. This was followed by Brendan O'Connor smashing a cd which had been given to him by Linda Martin. In short, his complaint is that RTÉ 1 broadcast a programme which contained material that was not suitable for the targeted audience in that it was sexist, ageist, overtly demeaning and insulting and that it offended good taste and decency.

**Station's Response:**

RTÉ in their response state that 'You're a Star' is a talent contest programme. As is the norm in these kinds of programmes, part of the audience enjoyment is listening to the critical comments made by the judging panel. In devising the show the producers are aware that the interplay between the various members of the judging panel is an important element. This includes the roles of 'good guy – bad guy'. Any viewing of the programme will show that the studio audience embraces these roles and boos the 'bad guy' and cheers the 'good guy'. The audience is aware that the interplay between the 'good guy' and the 'bad guy' is part of the contrived nature of the series and should not be taken too seriously.

RTÉ's view is that the level of banter between the two panellists is well within the audience's expectations and that the trading of insults is part of the play-acting which is expected on these kind of shows. Mr. McKenna fails to appreciate this is an entertainment show and that most of the audience does not take too seriously

the personal remarks Mr. O'Connor makes about the contestants or his fellow panellists.

The station further states that this programme was watched by over half a million viewers. Mr. McKenna in his complaint states that he only watched the programme for twenty minutes, but that amount of time was sufficient for him to conclude that the programme was not suitable for its target audience. With respect to Mr. McKenna, RTÉ begs to differ. The broadcaster is trying to make programmes attractive to different audiences. Clearly, 'You're a Star' is not attractive to Mr. McKenna, but it is attractive to half a million viewers. RTÉ believes that the commissioning and broadcast of this programme is legitimate and that it does not breach any standards in regard to taste and decency.

**Decision of the Commission:**

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. 'You're a Star' is a talent singing competition. Part of the show includes the interplay between the judging panel members and in this particular series, the banter between Linda Martin and Brendan O'Connor. The format of the programme is typical of the genre and viewers would expect banter and critical comment to be part of the programme. Light-hearted comments were made by both panel members about each other. The Commission noted that that the tone and manner of the banter was in keeping with the style of the programme. The repartee between the two judges was light-hearted and the tone was at all time humorous and mild. Given the good-humoured tone and the expectations of the programme's audience, this broadcast was unlikely to cause widespread offence. The complaint was rejected with reference to Section 24(2)(b)(taste & decency, pursuant to RTÉ's 'Programme Makers' Guidelines').

**5.75** *Complaint made by: Mr. Peter Robinson*  
*Ref. No. 30/06*

**Station:** RTÉ 2  
**Programme:** Sattitude  
**Date:** 11 February 2006

### Complaint Summary:

Mr. Robinson's complaint, submitted under Section 24(2)(b)(taste & decency), refers to a section of the programme 'Sattitude' broadcast on 11 February 2006. The particular section in question relates to a number of animals that were brought into the studio. The complainant asks if the controllers of RTÉ 2 are aware of the fact that animals are exploited in programmes being broadcast for children? Are the programme makers not aware that television is not a circus where wild animals perform for the trivial amusement of tired and bored minds? He states that a television studio is a totally alien environment for small reptiles. Dealers in exotic species should not be encouraged to hawk their wares on national television and especially not before a captive audience of children. Do animals exist merely as toys to entertain children? What sort of message is RTÉ trying to broadcast? He found this broadcast item offensive and inappropriate.

### Station's Response:

RTÉ in their response state that in this particular broadcast a number of animals were brought into the studio so children watching the programme could observe them. The animals were treated with care at all times. The animals were looked after by three minders who looked after the welfare of the animals and expressed themselves completely satisfied when the programme was over. Mr. Robinson asks 'do animals exist now merely as toys to entertain children? This question does a serious disservice to the programme-makers. Their intention was to inform children and in the process encourage the children to respect the animals. The tone of the entire item was one of consideration for the animals and respect for their existence. Mr. Robinson asks 'what sort of message is RTÉ trying to broadcast?'. The answer is that children should be curious about the animal world and should respect animals. RTÉ believes that this broadcast was entirely proper and that the complainant has misunderstood the motivation and impact of the programme on its young audience.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. 'Sattitude' is an entertainment programme for children. This broadcast featured a number of small reptiles in the studio. On viewing the programme, the Commission was of the opinion that, a viewer would see that the animals were handled with care. The item, while humorous in nature, was respectful towards

the animals. There was no evidence of exploitation or maltreatment nor was there any encouragement of anyone to 'hawk their wares'. The broadcast item was an entertainment piece and not a discussion on the issues of animal captivity or the illegal trading of exotic animals. The Commission did not consider that the nature and content of the programme gave rise to the matters of complaint raised by the complainant. This broadcast item treated the animals with care and there was no evidence of gratuitously offensive content. The complaint was rejected with reference to Section 24(2)(b)(taste & decency, pursuant to RTÉ's 'Programme-Makers' Guidelines').

**5.76** *Complaint made by: Mr. Ultan O'Broin  
Ref. No. 40/06*

**Station:** RTÉ Radio 1  
**Programme:** The Ryan Tubridy Show  
**Date:** 3 March 2006

### Complaint Summary:

Mr. O'Broin's complaint, submitted under Section 24(2)(b)(taste & decency), refers to a particular comment made by Mr. Liam Clancy during an interview with Ryan Tubridy. The complainant states that Mr. Clancy said of the American administration that someone said it must have been founded in someone's underpants, because it contained a bush, a dick and a colon. He asks do we really need this kind of comment at 9:40 am? The comment is not appropriate and is indecent. Furthermore, it is offensive, racist and displays a political bias that went unchallenged. The reference is to George Bush, President of the USA, Dick Cheney, Vice-President and Colin (pronounced colon by Americans) Powell, former US Secretary of State.

### Station's Response:

RTÉ in their response state that the interview on 'The Ryan Tubridy Show' with Mr. Liam Clancy was twenty minutes long. Liam Clancy was the subject of a two part documentary on his life and times to be broadcast on RTÉ television in the 'Arts Lives' series. He told a joke during the interview the references of which were a pun on Dick Cheney, George W Bush and Colin Powell. RTÉ fully accepts that the pun contained innuendo which would have resulted in uncomfortable broadcasting for some listeners. Indeed listening to a recording of the programme it is clear that the programme presenter was himself taken aback by the remarks. However, in a live interview it is very difficult to know what the presenter

could have done to ameliorate the situation. Tubridy's own gasp and withholding of his breath, more than the words he uttered, expressed his own concern at the joke. Listeners will have understood this to mean that Tubridy himself found the joke uncomfortable. RTÉ regrets Mr. Clancy's choice of words, but believes that there was nothing that the programme could have done in a live interview to distance RTÉ from the remarks without actually compounding their impact. RTÉ also believes that the remarks will have been over the heads of any younger listeners to the programme which was broadcast during school hours. Therefore, it is likely that only very young children would have been listening in the company of their parents or guardians.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The presenter Ryan Tubridy interviewed Mr. Liam Clancy about his life and his opinions on various issues. One of the questions included asking Liam Clancy how he had found America and what his views were on America 2006. Mr. Clancy responded that the people of America had been good to him, but he would differentiate between the people of a country and the government of a country. He then went on to tell a joke he had heard recently about the American Administration. It was evident the presenter was taken by surprise and reacted by moving the interview quickly on to the next subject. In the circumstances of a live interview, the Commission was of the view that the presenter dealt with the situation appropriately. Also, the Commission noted that the tone of the piece was jocular and good-natured. It was mild-mannered, with no evidence of intent to be gratuitously offensive. It was a relaxed interview during which Liam Clancy spoke openly about his experiences and opinions. Given the conversational style of the broadcast and the tone and language used, the Commission was of the opinion that the joke was unlikely to cause widespread offence. While the humour may not have appealed to all tastes, it could not be considered gratuitously offensive. The complaint was rejected with reference to Section 24(2)(b)(taste & decency, pursuant to RTÉ's 'Programme Makers' Guidelines').

**5.77** *Complaint made by: Mr. Nicholas Healy*  
*Ref. No. 49/06*

**Station:** RTÉ TV1  
**Programme:** You're a Star  
**Date:** 4 March 2006

### Complaint Summary:

Mr. Healy's complaint, submitted under Section 24(2)(b)(taste & decency), refers to a particular comment made by Mr. Brendan O'Connor during the above programme against Linda Martin. The complainant states that a reference was made to the Eurovision and previous song contest shows to choose a singer to represent Ireland. It was alluded to that this was not such a good idea to go down this particular road, as this was something close to Ms. Martin's heart. Mr. O'Connor, a panellist on the show, stated this wasn't as close to Linda Martin's heart as her "fake tits". The complainant wishes to state quite categorically that he found this remark insulting, offensive, sexist and demeaning to the women of Ireland. This is completely unacceptable behaviour in any civilized society. It is utterly and totally inexcusable. Many young children were watching this programme. As a parent, he does not condone such sexist remarks. It has no place in modern day Ireland.

### Station's Response:

It is RTÉ's view that the level of banter between the two panellists is well within the audiences' expectations and that the trading of insults is part of the play-acting which is expected on these kind of shows. It is worth noting that both the UK and American versions of this show, both of which are available to Irish audiences on other channels, has exactly the same chemistry with panel members trading insults. Mr. Healy failed to appreciate that this is an entertainment show and that most of the audience does not take too seriously the personal attacks Mr. O'Connor made about his fellow panellists.

RTÉ can appreciate Mr. Healy's desire that nothing should be broadcast which insults women. It is RTÉ's view that Mr. Healy's criticism of both the programme and RTÉ is completely over the top and that he exaggerates the impact of light-hearted banter between two experienced and professional panellists.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. 'You're a Star' is a talent singing competition. Part of the show includes the interplay between the judging panel members and in this particular series, the banter between Linda Martin and Brendan O'Connor. The format of the programme is typical of the genre and viewers would expect banter and critical comment to be part of the programme.

Light-hearted comments were made by both panel members about each other. The Commission would acknowledge that some viewers may find the exchange somewhat crude at times. However, there was no evidence of gender discrimination in the broadcast. While the humour of the banter may not be to all tastes, its tone and manner was in keeping with the style of the programme. The Commission was of the opinion that the repartee between the two judges was light-hearted and the tone was at all times humorous and mild. Given this good-humoured tone and the expectations of the programme's audience, this broadcast was unlikely to cause widespread offence. The complaint made by Mr. Nicholas Healy was rejected with reference to Section 24(2)(b)(taste & decency, pursuant to RTÉ's 'Programme Makers' Guidelines').

**5.78** *Complaint made by: Ms. Lorraine Dockery*  
Ref. No. 66/06

**Station:** RTÉ 2  
**Programmes:** Podge and Rodge  
**Dates:** 20 March 2006

**Programmes:** Late Late Show  
**Dates:** 24 March 2006

**Complaint Summary:**

Ms. Dockery's complaint, submitted under Section 24(2)(b)(taste and decency), refers to the programmes 'The Podge and Rodge Show' and 'The Late Late Show'. During the 'Podge and Rodge Show', the presenters read a spoof passage from Jordan's autobiography which was grossly offensive and vulgar. The passage was then rated for its 'wank factor', and hand movements simulating masturbation were made. Similar ratings were given for a film and a television series. This was followed by the female presenter, Lucy Kennedy, doing a vox pop asking the meaning of, words and expressions of a sexual nature. During their appearance on 'The Late Late Show' on Friday 24 March, they repeatedly used foul and offensive language, and made sexist, misogynistic comments – when Pat Kenny asked them what they looked for in a woman their reply was *"a hole and a heartbeat"*.

She states, although the programme is shown after 9pm, it is viewed by children as young as eight or nine because the characters are puppets. As a parent of two teenage boys aged fourteen and seventeen who are becoming increasingly autonomous about their viewing rights, she deeply resents them being exposed to bottom-of-the-barrel, vulgar trash like this.

**Station's Response:**

RTÉ state that 'The Podge and Rodge Show' is a comedy programme that features two puppets depicting characters that could be described as *dirty old men*. They are irascible, cantankerous and outrageous hosts of a spoof chat show where guests are regularly subjected to rudeness and the most personal remarks. Nobody either participating in the programme or watching the programme can take it too seriously. It is a comedy show shown late at night to an audience familiar with the crudity of the puppets. There is nothing unexpected in this programme.

The first broadcast of the programmes on Mondays and Tuesdays do not begin transmission until 10.50pm. The repeat shows on Friday do not broadcast until after 11pm. RTÉ believes there is licence to broadcast at that hour material unsuitable for family viewing and programming which some viewers may find offensive. Comedy is a very subjective genre that audiences respond to in very different ways. In terms of its target audience, young adults, Podge and Rodge have been remarkably successful. The programme started its run with an average of 200,000 viewers. Its current average audience size is 400,000 viewers. RTÉ also believes that the humour Ms. Kennedy exhibits occupies the same genre as the puppets and the justification for its inclusion is identical to that of the puppets.

It is also RTÉ view that the puppets toned down their performance on The Late Late Show to take account of the more general audience likely to be watching this programme. The participation of the puppets was carried quite late in the programme in order to ensure that parents could exclude younger members of their families.

**Decision of the Commission:**

The Commission has considered the broadcasts, the submissions made by the complainant and the broadcaster.

**'The Podge & Rodge Show'**

The Commission noted that the series, 'The Podge and Rodge Show', is broadcast in the late-night schedule on RTÉ 2. The Commission also noted that the station's viewers would be familiar with the humour of Podge and Rodge. The Commission would acknowledge that in this broadcast, the humour relied mainly on sexual innuendo and what some would regard as puerile material. The language was also at times crude and coarse, which some viewers would find hard to listen to. However, regular viewers of the show would expect such

content. They are familiar with the humour and style of the two puppets. They are also familiar with their language, their behaviour and the type of material that forms part of their act. Therefore, while the Members would acknowledge that the humour may not have been acceptable to all, given the time of the broadcast and the expectations of the audience, the programme was unlikely to cause widespread offence.

#### **'The Late Late Show'**

The performance of Podge and Rodge featured in part three of the programme. The Commission noted that the content was moderate, not typical of the content one has come to expect from the two puppets. While the Commission would acknowledge that there was sexual innuendo, the language and humour was reasonably moderated for the broadcast programme, 'The Late Late Show' and the broadcast time.

The Commission would acknowledge that a reference to a woman as 'a hole and a heartbeat' would generally be considered offensive. However, in the overall context of the interview and the tone and humour of the piece, the Commission was of the view that the reference was not gratuitous and there was no intent to cause offence. They would agree that it was inappropriate and of questionable taste, particularly given the programme in which it was broadcast. However, in light of the time of the broadcast of this section of 'The Late Late Show' and the context of the humour, this interview was on the borderline of what is acceptable.

Both complaints were rejected with reference to Section 24(2)(b)(taste & decency, pursuant to RTE's 'Programme-Makers' Guidelines').

**5.79** *Complaint made by: Mr. Terence Byrne  
Ref. No. 78/06*

**Station:** FM104  
**Programme:** Strawberry Alarm Clock  
**Date:** 31 March 2006

#### **Complaint Summary:**

Mr. Byrne's complaint, submitted under Section 24(2)(b)(taste & decency), refers to the comments made by the presenters at the end of a competition aimed at young children during a broadcast of the 'Strawberry Alarm Clock'. The complainant states that the competition involves children entering to see if they can get five wrong answers. In this particular broadcast, a 'child' came on-air and got one of the

questions right. Ridicule followed by the presenters and the 'child' started crying. This upset the complainant's grandchildren. It turned out it was supposed to be a joke for April Fool's Day. However, he did not find it funny. Firstly, it was not April Fool's Day and even if it was, it was a sick trick to play on little children who are too young to know what April Fool's Day is.

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

FM104 submits that the broadcast item complained of was an April Fool's Day 'Kidz in the Car' comedy sketch. The 'Kidz in the Car' section is a feature of the programme and it is where the presenters and kids interact. The kids quite often slag the presenters and vice versa. It includes friendly banter resulting in a competition where the presenters Colm and JimJim have to guess what the kid is thinking of. If they fail, the kids shout 'Ha, ha, ha, in your Face, suckers', at the two presenters and wins all the prizes.

On the morning in question, the programme-makers decided to play an April Fool's gag one day early because the show was not being broadcast live on 1 April. In the spirit of the 'Strawberry Alarm Clock' they used a grown adult to pretend she was a kid and while playing the game they managed to guess what she was thinking of. They refused to give her the prizes and 'the actress' started to cry. Immediately, after the next record they told listeners it was an April Fool's joke and the reaction received was huge. A large number of people contacted the show to say it was the funniest piece they had heard and it was replayed on Saturday and again the following Monday due to popular demand.

The broadcaster further states that the 'Kidz in the Car' is a comedy piece where the whole context of the broadcast is fun. The 'competition' is never taken seriously by the presenters, the kids or the listeners in general.

#### **Decision of the Commission:**

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The section of the programme complained of, 'Kidz in the Car', is a regular feature of the 'Strawberry Alarm Clock'. The Commission noted that parents and their children are an integral part of the feature. The programme's audience, including the children, would be familiar with the format of the feature and the type of humour involved. The particular broadcast item in question was a sketch. It was carried out in the format of the 'Kidz in the Car' feature. The Commission would acknowledge that some younger



children may not have realised the item was a sketch, but the content was such that it was not gratuitously offensive. The regular audience would expect such humour in this programme. Also, the Commission noted that the station informed listeners after the next record that the item was a comedy sketch. The Commission was of the view that this item was unlikely to cause widespread offence given the comedic nature of the 'Kidz in the Car' feature; that children were likely to be in the company of their parents; and the audience's expectations. The complaint made by Mr. Terence Byrne was rejected with reference to Section 24(2)(b)(taste & decency) of the Broadcasting Act 2001.4(2)(e)(advertising codes) of the Broadcasting Act 2001.

**5.80 & 5.81** *Complaints made by: Mr. Gavin Shipley*  
*Ref. Nos. 87/06 & 88/06*

**Station:** RTÉ Radio 1  
**Programme:** Morning Ireland  
Today with Pat Kenny  
**Date:** 30 March 2006

### Complaint Summary:

Mr. Shipley's complaints, under Section 24(2)(b)(taste & decency), refer to the Samuel Beckett "Tribute" broadcast on the 'Morning Ireland' programme and then again on the 'Today with Pat Kenny' show. No warning was given about it regarding the content. He immediately telephoned the programme to request the broadcast be censored as it contained inappropriate and foul language. This request was totally ignored as the same uncensored recording was broadcast again.

He was deeply offended and outraged by the cavalier and callous approach to standards of decency by a publicly funded national broadcaster and he does not pay his licence fee to be subjected to inappropriate and foul language. It was utterly reprehensible to allow this premeditated broadcast to take place, which was entirely preventable, by either omitting the language in question or not broadcasting it at all.

### Station's Response:

RTÉ states that the occasion of these broadcasts was the formal launch of a festival to commemorate the centenary of the birth of Samuel Beckett. The principal guest speaker was Bono. He was asked by the Chairman of the Festival to compose and deliver what was described as a "pastiche of Beckett's works". This

was understood to mean using the style of Beckett to comment on contemporary life.

RTÉ further states that because of the importance of the occasion, the eminence of the performer and the artistic merit of the piece, they decided to broadcast the performance in its entirety. RTÉ do not either censor or bowdlerise what it considers to be works of art. The material contained one use of the word "prick" and one use of the word "fuck". Whilst RTÉ do not, in general, wish to see such words broadcast there is no absolute ban. Programme-makers are asked to take into account the context in which such language is used. On this occasion, it is RTÉ's view that the editors and producers responsible for the two programmes made the correct decision in including the full contribution of Bono to the festival launch. RTÉ does not accept that the programme broadcast in a gratuitously offensive manner.

The audiences for these programmes are overwhelmingly serious adult audiences whose expectations are that RTÉ will maintain high standards of speech. An occasional inclusion of language which is offensive to some listeners may be justified if the context of the broadcast allows it. On 30 March, after careful consideration, a decision was taken to broadcast the full performance of Bono. He had been asked to compose a piece in the style of Beckett. Beckett's own use of language is earthy. For RTÉ to have censored Bono's composition would have gone entirely against the spirit of the man being honoured.

### Decision of the Commission:

The Commission has considered the broadcasts, the submissions made by the complainant and the broadcaster. The items complained of relate to two broadcasts of Bono's address at the launch of the Beckett festival. The Commission noted that Bono's piece was written in the style of Beckett. The Commission would acknowledge broadcasters need to exercise care with the use of swearing/offensive language. However, on this occasion the Commission was of the view that in the context of the language and style of the piece, the words were not used in a gratuitous manner nor were they used to offend. Also, the audience for this programme is predominantly adult. The Commission was of the view that the item would not cause widespread offence. The complaint was rejected with reference to Section 24(2)(b)(taste & decency, pursuant to RTÉ's 'Programme-Makers' Guidelines') of the Broadcasting Act 2001.

The Commission would add, although the audiences for these programmes are predominantly adult, it is likely that there could be children in the audience given the time of broadcast. Therefore, in future it would be advisable if the broadcaster warned the listener about the potential offensive language prior to the airing of such a pre-recorded piece.

**5.82** *Complaint made by: Mr. Les Matthews*  
*Ref. No. 97/06*

**Station:** Today FM  
**Programme:** Sunday Supplement  
**Date:** 26 March 2006

### Complaint Summary:

Mr. Matthews' complaint, submitted under Section 24(2)(b)(taste & decency), refers to a comment made by the presenter of the 'Sunday Supplement' programme which he found offensive. The presenter was talking to his in-studio guests about the 1916 Celebrations. Pádraig Pearse's name was mentioned and Mr. Smyth said; 'He was a pervert, wasn't he?', to which one of his guests replied; 'Yes, it was rumoured he was homosexual'. To equate a pervert and a homosexual person as one and the same, is highly offensive. It is also dangerous. The complainant phoned the station and asked that Mr. Smyth retract his comment and issue an apology. However, no retraction was made. The complainant believes that this offensive comment should be addressed and an apology issued to all gay men and women by Today FM.

### Station's Response:

Today FM submits that these comments were made in the course of a discussion surrounding the sexuality of Pádraig Pearse. An interaction to that described did take place and on reflection it was an unfortunate use of words by the guest. The station would reassure Mr. Matthews that any link between homosexuality and being a pervert was not intended. The presenter also categorically reassures the complainant of this fact. The station would like to apologise to the complainant and promises the production team will be more vigilant in the future.

### Decision of the Commission:

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

Easter 1916 and a panellist asked 'how can you marry current affairs with history', 'what is this military commemoration about?'. The presenter introduced the discussion on Pádraig Pearse from his own perspective; on his visits to the South, what he found interesting 'was examining the prejudices of other people'. He then went onto say; 'but also inevitably Pádraig Pearse gets a very bad, you know, dare I say it, more people than not think of him as a pervert?' One of the panel members responded with; 'Yeah, which is...this was a very contentious issue. In the late 1970s when Ruth Dudley-Edwards published her revisionist biography of Pádraig Pearse, which was questioning the myths and legends of Pearse.....and she raised this question in a very small way that, you know, perhaps, he had homosexual tendencies, that has suddenly transferred.....' The presenter interrupted; 'only tendencies, there's no suggestion that he ever...'. The panel member continues; 'There was no suggestion that he was remotely sexually active, I think Pádraig Pearse was completely asexual. He was a man of his era in which youth were celebrated, manliness was celebrated, the beauty of young children was celebrated, that's not necessarily amounting to paedophilia...it's a very Victorian thing.....you can say what you want about Pearse, now, but the idea that that is what he should be remembered for is actually perverse in itself'. The presenter then asked; 'Have you never understood that most people believe there was something odd about Pádraig Pearse?' Another panel member responded, 'the main thing I grew up with ....his belief in blood sacrifice....it wasn't so much his sexual proclivities, real or imagined'. The discussion then continued on a recent perspective put forward that Pearse had Asperger Syndrome. The panellists agreed that this was 'much more important and much more interesting'.

The Commission would agree with the complainant that to compare homosexuality with perversity would be offensive. The Commission also believes that it would be totally unacceptable. However, on listening to this broadcast the Commission does not agree that there was such a comparison made during the discussion. The panel member responded to a question by saying that a suggestion in a book printed in the late 1970's was that Pádraig Pearse had homosexual tendencies and since then various other propositions have been put forward about his sexuality. He referenced the publication of the book, as he believed 'it fuelled the speculation on Pádraig Pearse's sexuality' in the public arena. He then went onto discuss subsequent speculation and comment on Pearse's sexuality. The Commission believes there was no intention to link 'pervert' with 'homosexual'. The panel member informed the listener of the background

to the speculation on Pádraig Pearse's sexuality. It was evident that the panellists did not like the context in which Pearse's life is now discussed. While the Commission would acknowledge that the presenter might have worded the questions differently, he did not imply that there was a connection between perversion and homosexuality. There was no evidence of intention to cause offence in this broadcast. The complaint was rejected with reference to Section 24(2)(b)(taste & decency) of the Broadcasting Act 2001.

**5.83** *Complaint made by: Mr. Peter McEvoy*  
*Ref. No. 108/06*

**Station:** RTÉ Radio 1  
**Programme:** Round Midnight  
**Date:** 8 May 2006

### Complaint Summary:

Mr. McEvoy's complaint, submitted under Section 24(2)(a)(impartiality) and (b)(taste & decency), relates to a broadcast item on 'Round Midnight'. He states the programme with Eamon Keane focused on the 'First Communion' theme, involving a panel discussion. All contributors, including the presenter, were cynical, dismissive, arrogant and insulting in their references to Eucharistic practice and devotion (a core element of Christian belief). The ultimate derogatory comment came from a male panellist, who mused whether the 'Body of Christ' was 'Rare or Well Done'. This gratuitously offensive remark exceeded the limits of comedy, satire or fair comment, and amounted to blasphemy. The Presenter made no attempt to distance himself or the station from this remark, and therefore abdicated impartiality.

The entire programme contravened basic norms of good taste, decency and respect for sincerely held systems of belief and tradition, which should be respected by any public service broadcaster (irrespective of the particular religious domination or cultural tradition concerned).

### Station's Response:

RTÉ states that Eamon Keane introduced his contributors and said that one of the topics that would be looked at on the programme was excesses associated with First Communions. There were four contributors to the programme who proceeded to give some light-hearted banter and comment about the phenomenon of excessive spending on First Communions. It is RTÉ's view that Mr. McEvoy failed to take account of the central

fact that what he was listening to was comedy and that many of the remarks that he finds offensive were told as part of jokes.

Listeners to the programme would have been familiar with the nature of this programme and would not have expected a "serious" discussion about the religious significance of First Communions. Rather they would have expected social comment and humour. It was obvious to anyone listening to the programme that the tone of the whole programme was comic. It is the nature of comedy on occasion that it can give offence. Good comedy is often a vehicle for comment about behaviour. When the topic under discussion is religious, there is a greater likelihood of offence. However, on this occasion, RTÉ is fully confident that the humour remained well within the audience's expectations and did not exceed any boundary in terms of taste & decency. It is worth noting that later on in the discussion, the Presenter accused the contributors of being too cynical and described First Communion as a magical experience.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The discussion complained of dealt with First Holy Communion. This included the panellists proffering their opinions on how the ceremony is conducted and treated in the present day and also, they recounted their memories from childhood. The tone was at all times mild and somewhat light-hearted. The Commission believes that the broadcaster was entitled to include this topic in the programme. Freedom of expression is an important right and the Commission acknowledges and respects this right. What is important to the Commission is that the broadcaster deals with the content fairly.

It was evident to the listener from the outset that the tone was comedic in nature. While the Commission would acknowledge that the joke told concerning the host may not have raised a lot of laughs, it must be taken in context. The panellists were recounting their childhood experiences of First Communion. The joke was childish in nature and in keeping with the tone of the discussion at that particular time. It was an off-hand remark, said in a mild and jocular manner. While it may have been inappropriate, the Commission was of the opinion that it was not gratuitously offensive. In the context of the discussion, it was an innocuous comment that was unlikely to cause widespread offence.

The Commission also noted that the presenter, in the course of the discussion, asked the panellists to consider the 'special innocence' attached to First Communion 'and for those people who do believe...that they are being welcomed into a body, into a church and that sense of spirit...'. The Commission was of the opinion that the tone of the broadcast was respectful. The subject matter was treated fairly and within acceptable standards. The complaint was rejected with reference to Sections 24(2)(a)(impartiality) and (b)(taste & decency, pursuant to RTÉ's 'Programme-Makers' Guidelines') of the Broadcasting Act 2001.

**5.84** *Complaint made by: Mr. Aodan Fullam  
Ref. No. 109/06*

**Station:** RTÉ TV1  
**Programme:** Tubridy Tonight  
**Date:** 6 May 2006

### Complaint Summary:

Mr. Fullam's complaint, submitted under Section 24 (2)(b)(taste & decency), refers to an interview with Mr. Tommy Tiernan on the 'Tubridy Tonight' programme of 6 May last. The complainant saw no fun whatsoever in his performance. He used some form of the 'F' word six times and got clapped each time (probably led by a programme clapper). When asked about Americans, he replied, 'fattest f\*\*\*ers in the world' and he passed some snide remarks about Tánaiste, Mary Harney, T.D. The complainant expects a decent standard from the National T.V. station.

### Station's Response:

RTÉ submits that Mr. Tommy Tiernan is currently Ireland's most popular comedian if one is to judge by his DVD sales and tickets for his live shows. Someone can be the most popular comedian in the country and yet a complainant can find nothing humorous in his performance. But to be fair to Mr. Fullam his objections are to the use of expletives by Mr. Tiernan.

RTÉ recognises that a proportion of the audience do not wish under any circumstances to hear language on air which they regard as offensive. Yet there is another section of the audience who are entirely unconcerned about the use of language. Ireland attempts to cater for both sections of the audience. This means that space is found for Tommy Tiernan. RTÉ would ask the section of the audience who do not approve of Mr. Tiernan to avoid watching him, or to accept that in the interests

of freedom of expression they may hear language that offends them. There can be few members of the audience who are unaware of the style of presentation of Tommy Tiernan. It was indicated in the promos before the transmission and was highlighted at the beginning of the programme that Mr. Tiernan was due to appear. Mr. Fullam could have simply chosen not to watch Mr. Tiernan.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The style and content of Mr. Tommy Tiernan's humour is well-known. In this particular interview, the Commission was of the opinion that Mr. Tiernan's humour and language was reasonably moderated for the programme in question. The Commission was of the view that the interview was conducted in an easy-going, conversational style. The tone was at all times good-natured and mild-mannered. The Commission would acknowledge that a broadcaster must exercise due care with the use of swearing. In this particular interview, the Commission was of the view that the presenter did facilitate a controlled and moderated interview with Mr. Tiernan. Given that the programme is aimed at an adult audience and the restrained and mild-manner tone of the piece, the content of this particular broadcast was within acceptable standards and unlikely to cause widespread offence. The complaint was rejected with reference to Section 24(2)(b)(taste & decency, pursuant to RTÉ's 'Programme-Makers' Guidelines') of the Broadcasting Act 2001.

The Commission did note the time of broadcast. The Members would draw the broadcasters attention to the graduation period referred to in its 'Programme-Makers' Guidelines'. While the language and humour was moderated on this occasion, the broadcaster should consider broadcasting interviews which they know could contain swearing/offensive language to a later time slot, thereby ensuring adherence to the 'graduation period' referred to in the guide.

**5.85** *Complaint made by: Mr. Kevin Conry  
Ref. No. 117/06*

**Station:** RTÉ 2FM  
**Programme:** Gerry Ryan Show  
**Date:** 8 May 2006

### Complaint Summary:

Mr. Conry's complaint, submitted under Sections 24(2)(b)(taste & decency) and (f)(slander), refers to a discussion with a caller about how Catholics should respond to the film 'The Da Vinci Code' during a broadcast of the 'Gerry Ryan Show'. The presenter referred to Jesus as a 'Palestinian Terrorist'. The complainant found this comment to be extremely offensive, inaccurate and blasphemous. If Gerry Ryan's personal view is that Jesus was a terrorist he should not be allowed to use the National airwaves to espouse it and offend thousand of Catholics in the process.

### Station's Response:

RTÉ submit in the course of the discussion on the subject of the movie 'The Da Vinci Code', a caller 'Pat' to the programme explained his views how practicing Catholics should not go to see the movie because it mocked people's faith. Gerry Ryan conducted a gentle interview with 'Pat', giving him a lot of space to express his views. Two other callers, 'Clare' and 'Dave' also contributed to the discussion. The whole discussion was polite and respectful. At one stage in the interview the presenter made the remark 'If Jesus were sitting here he'd be pretty disappointed at how bleak you think the faith issue is, debate is at the very core of what He did. This guy (Jesus) was a Palestinian terrorist'. The point that Gerry Ryan was making was that Jesus in his time stood out against Roman authorities and was an outsider, i.e. not a member of the Establishment and that he favoured debate. Gerry Ryan was putting to 'Pat' that encouraging people not to go and see the movie did not contribute to debate, but merely cemented blind faith. Both the book and the movie were works of fiction and surely would not undermine anyone's faith.

In RTÉ's view the use of the term 'Palestinian terrorist' was perfectly legitimate and that its use was made in order to stimulate debate and analysis. 'Pat', the interviewee understood this perfectly and immediately claimed that the term was not accurate as Jesus had rejected the politically militant and had turned away from the Palestinian cause of fighting against the Romans. Gerry Ryan came back to clarify what he meant, that 'Jesus had *disfunctionalised* the Roman authorities'.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The discussion in question related to the film 'The Da Vinci Code'. A caller to the programme

said Catholics should not go to see the film as the content is offensive to the Catholic Faith. The presenter, Gerry Ryan, questioned and challenged the views of the caller. In doing so, he did refer to Jesus as a 'Palestinian Terrorist'. However, he qualified this question shortly afterwards and the caller to the programme responded and challenged the presenter on the issue. The Commission is of the view that the question must be taken in context. This was a live discussion in which views and opinions were challenged and discussed. While the Commission would acknowledge that the question could have been worded differently, the tone was serious and considerate. It was evident that the question was asked to elicit information and not to cause offence.

In the context of the live discussion, the Commission was of the opinion that the intent of the presenter was to generate debate and discussion and not to cause offence. The tone of the discussion was at all times respectful and mild-mannered. There was no evidence of gratuitously offensive content. In relation to the assertion of slander, the Commission noted that at no stage were allegations made directly against the complainant, or any assertion made, which constituted an attack on the complainant's honour or reputation. Therefore, the broadcasting regulation concerning slander does not apply. The complaint was rejected with reference to Section 24(2)(b)(taste & decency, pursuant to RTÉ's 'Programme-Makers' Guidelines') of the Broadcasting Act 2001.

**5.86** *Complaint made by: Ms. Yasmin Barry  
Ref. No. 133/06*

**Station:** City Channel  
**Programme:** Sex TV  
**Date:** 4 June 2006

### Complaint Summary:

Ms. Barry's complaint, submitted under Section 24(2)(b)(taste & decency), relates to sexual content in a programme broadcast at midnight on 5 June 2006. She states that she is a mother of 2 girls and while she does not consider herself to be particularly closed minded or conservative, she did think that this programme could be construed to sexualise young girls and in doing so justify paedophiles' perceptions of young girls. This broadcast included the photograph of two naked children. The gist of the programme seemed to be about young children touching themselves and a mother saying that she showed her daughter where the clitoris was. The

children were 3 and 4 years old. She felt very sick by the nature of this programme, and felt it was simply encouraging the sexualisation of young children in a bizarre fashion.

### Station's Response:

City Channel state that the programme in question is a sex relationships series, *Sex TV*. It features items concerning relationships, erotica, sex and entertainment and presents them in a non-gratuitous and non-explicit manner. The aim of the programme is to take popular sexual and non-sexual themes and make them available to a mainstream audience. The series has been transmitted on City Channel since the service began broadcasting in October 2005. The station has never received a complaint from the BCC about this or any of their programme output.

The broadcaster further submits that the programme has never been broadcast in a pre-watershed slot and the programme is only transmitted after midnight to avoid any possible exposure to an underage or young audience. *Sex TV* carries a specific graphically written warning about its content at the top of the programme which reads:

'the following programme contains mature themes, nudity, coarse language and explicit discussion of sexuality. Viewer discretion is advised.'

The statement as read is also voiced-over. The programme has never been transmitted on City Channel without this written and aural warning.

In the specific episode in question, entitled 'Avoiding the big talk', the issue of introducing sex education into the family environment was discussed and focussed mainly on the perspective of mothers and their daughters. The programme featured educational experts and consultants as well as parents of young children. The item offered differing views of the manner in which, and timing when, sex education should be introduced into a family environment. The item discussed the need to be 'open and honest' with children and evaluates the concept of 'shame' about sex education with 'openness'.

The item was not presented in a gratuitous or explicit manner at any point but some of the references to female/child genitalia could be construed as somewhat unusual were they not placed in the context in which they appeared in the programme. Some diagrammatic representations of the female reproductive organs

were seen during the item but these were text-book representations and not photographs, nor were they presented in an inappropriate or sexual manner.

The programme is observational/educational/anthropological in concept and nature and does not set out to gratuitously present its topics in a sexual manner. Also, the programme was transmitted at a 'safe time with all due care and attention towards a possible underage audience.

### Decision of the Commission:

The Commission considered the broadcast, the submissions made by the complainant and the broadcaster. The section of the programme on which this complaint is based was entitled 'Avoiding the big talk; raising sexually healthy children'. The programme explored the opinions of two Sex Educators, a number of mothers and a father on what they believed was the way to raise sexually healthy children. The discussion included a mother telling how open she was with her daughter about sexuality. She also said that she showed her daughter at a very early age where the clitoris was. The tone of the programme was at all times serious and responsible. It was a factual exploration of how parents might approach the sexual education of their children from an early age. There was no evidence of gratuitous comments. The manner in which graphic images and photographs were used during the item was also non-gratuitous. A few of the interviewees spoke about the fact that they use accurate names for body parts and believe such practice, as opposed to pet names, was a positive message to a child about their sexuality, their body.

This broadcast item discussed in an educational and factual manner, the issue of child sexual education. It was simply concerned with sexual education, which the programme clearly stated was 'a lifelong learning process...', that's broader than just about the sex act. Its about sexual orientation and its making sure that you know the basics of how your body functions and reproductive health'. The tone of, and the treatment of the subject matter, in the discussion was never gratuitous or sensationalist.

The Commission also noted the time of the broadcast: midnight. This is well after the 9 pm watershed and a time when children are unlikely to be in the audience. Given the educational nature of the discussion, and the serious tone and treatment of the subject matter, coupled with the time of broadcast, this complaint was unlikely to cause widespread offence. The Commission

noted that the complainant came across the programme on the NTL menu page. The responsible nature of the content and the scheduling decision of the broadcaster, ensured this broadcast was within acceptable standards irrespective of this fact. The complaint was rejected with regard to Section 24(2)(b)(taste & decency) of the Broadcasting Act, 2001.

**5.87** *Complaint made by: Ms. Anne Ryan  
Ref. No. 150/06*

**Station:** Cork's 96FM & 103FM  
**Programme:** The Opinion Line  
**Date:** 11 July 2006

### Complaint Summary:

Ms. Ryan's complaint, submitted under Section 24(2)(b)(taste & decency), refers to a remark made by Neil Prendeville in which he referred to a report in the Press that a celebrity at the age of 71 will be photographed semi-nude (she thinks he said nude) for the Pirelli Calendar. Ms. Ryan considers his remarks to be appallingly and unacceptably ageist. She cannot quote him verbatim, but his concluding remark was that the celebrity should rethink the project. She states the comment came across to her as patronisingly mocking in content and tone and to be ageist. It was, in her view, unacceptable.

### Station's Response:

Cork 96FM states that this topic arose as part of a light-hearted on-air competition, with the presenter passing comment on a female celebrity appearing nude in a calendar at the age of 71, which was the basis of one of the questions. The comments were passed in a throwaway and jovial manner and in no way attempted to pass any serious comment. The nature of the show is that it is opinion driven and, if any listener, including the complainant, had any issue to raise on the above, they would have been more than happy to broadcast this on-air at the time. The comments formed part of a light-hearted link and no harm whatsoever was meant.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The broadcast item in question relates to the comments made by the presenter as he posed a question to listeners in a station competition. The question related to a news item that day and he asked

'who was the 71 year old female celebrity who is set to strip for a calendar'. He then proceeded in a jovial manner to suggest at 71 maybe you should be wrapping things up. He concluded by saying it was none of his business and by taking her clothes off, she'll help to sell the calendar. The tone of the piece was at all times humorous and jocular in nature, and in the view of the Commission, there was no intention to be derogatory. Taken in context, the Commission was of the opinion that this broadcast item was unlikely to cause widespread offence. The Commission rejected the complaint with reference to Section 24(2)(b)(taste & decency) of the Broadcasting Act, 2001.

**5.88** *Complaint made by: Ms. Sandra Harris  
Ref. No. 201/06*

**Station:** 98FM  
**Programme:** Late Night Talk  
**Date:** 30 August 2006

### Complaint Summary:

Ms. Harris's complaint, submitted under Section 24(2)(b)(taste & decency), refers to an item featured in the psychic part of the show. A man rang the show to speak with the psychic in the studio. He told of having a one night stand with a woman who subsequently had a child and who was now inquiring about his finances. He suspected she had a hidden agenda. Ms. Harris claims the psychic and the host, although knowing nothing about the woman, launched into an attack not only on her character, but also on the character of other single fulltime mothers who seek financial assistance from their children's fathers. The implication was that such women are "lazy and greedy" and sit around in the "lap of luxury" watching "daytime soaps" while poor, hard-done-by men are forced to subsidise their lavish lifestyles. The host strongly implied that such women are "gold-diggers" and also that he would fight "tooth and nail" to stop a similar attempt on his own wallet. He advised this caller to change solicitors and pay the very minimum he could get away with for his child. His remarks about single mothers were offensive and uncalled for.

### Station's Response:

In their response 98FM outline the segments of the show and state that the caller said the woman in question had a "hidden agenda". The presenter, Tom Brannigan, inquired as to what the "hidden agenda" could be and went on to state during the discussion

"without being unfair to a lot of women that are in that situation... but some have a hidden agenda" to which the caller stated he believed he may have been set up. While rounding up the piece and editorialising the presenter said "...watch out for hungry hound gold diggers, there are too many men in this situation". He went on to provide an opinion that these fathers have a responsibility to look after their children but stated that, should he find himself in such a situation, he would fight hard to ensure he was not being taken advantage of. He urged the caller not to get into a situation where he was working hard while others sit back and enjoy the benefits. 98FM state that the presenter concluded the piece by balancing the issue saying both men and women are doing it and that they (men and women) are manipulating each other. Furthermore, Tom Brannigan was professional, diligent, probing, curious and editorialising during the piece and dealt with the topic in an informative manner.

#### **Decision of the Commission:**

The Commission considered the broadcast, the submissions made by the complainant and the broadcaster. The item in question relates to a call to the psychic guest on the Late Night Talk show and the presenter's (Mr. Tom Brannigan) and the psychic's subsequent discussion with the male caller. In the course of the discussion, the male caller intimated that he believed he was targeted by the mother of his child and that he felt she had a hidden agenda with regard to his finances. The presenter and the psychic picked up on these issues and advised the caller that he should be wary and if needs be, get a good solicitor. The Commission would acknowledge that the presenter did say that some women did seek to take advantage of men. However, in the context of the phone-in and the issues raised by the caller, the Commission was of the view that the presenter did not attack single mothers per se. His statements related to the situation of the male caller and it was evident they were not aimed at all single mothers. The discussion was based on the experiences and situation of the male caller to the programme. The Commission was of the opinion that the content was inoffensive and unlikely to cause widespread offence. Therefore, the complaint was rejected with reference to Section 24(2)(b)(taste & decency).

**5.89** *Complaint made by: Mrs. Ursula Corcoran  
Ref. No. 223/06*

**Station:** Cork's 96&103FM  
**Programme:** Promotions for the Nick Richard Show  
**Date:** 19 September 2006

#### **Complaint Summary:**

Mrs. Corcoran's complaint, submitted under Section 24(2)(b)(taste & decency), relates to a series of promotions for the Nick Richard Show on Cork's 96FM. She submits that all the promos describe the presenter in negative terms. On its own, she thinks the promotions are quite humorous, but as a series it is very negative. Discussing this series of promotions with younger family members, it was felt that they would be termed as 'bullying' if applied to work colleagues or school friends. In view of stay safe programmes and anti-bullying strategies in place in schools and the workplace, she feels these promos are in bad taste.

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

Cork's 96&103FM submit that they are not sure how the promo complained about has caused offence. The series of promos are clearly designed to be humorous and definitely not designed to stimulate bullying amongst work colleagues and school friends. The show contains a number of elements of humour and light heartiness and these fit in with the nature of the show. They are clearly aware of their responsibilities when younger listeners are tuning in, but are amazed that the promos complained about cause offence. The station would ask the Commission to note that they have received no other complaint regarding this series of promotions and similar promotions running since the station's inception.

#### **Decision of the Commission:**

The Commission has considered the broadcasts, the submissions made by the complainant and the broadcaster. The complaint relates to station promotions for the Nick Richard Show, which is broadcast during the morning schedule on Cork's 96&103FM. The Commission noted that the promotions are based on humour and it is obvious on hearing the items that they are tongue-in-cheek. The humour is based on the so-called 'awkwardness' of, and the 'accident-prone', presenter. The Commission would not agree that such humour is negative. They were of the opinion that the humour is slap-dash, it is comic in nature and evidently not supposed to be taken seriously. There is no evidence



of offensive content in the promotions. The Commission could not find any evidence of the issues of complaint as submitted by the complainant. The complaint was rejected with reference to Section 24(2)(e)(advertising codes).

**5.90** *Complaint made by: Mr. Philip Norden*  
*Ref. No. 235/06*

**Station:** TG4  
**Programme:** Hector San Oz Down Under  
**Date:** 1 October 2006

### Complaint Summary:

Mr. Norden's complaint, submitted under Section 24(2)(b)(law & order, taste & decency), concerns a broadcast of the series Hector San Oz Down Under. The complainant submits that the particular broadcast in question breached taste and decency. In particular, the segment with Mr. T. Kennelly in Sydney, showed Hector and Mr. Kennelly having bondage sexual activity with a female. The segment involved bondage, sex toys, bondage violence with chains, whips, masks and other bondage equipment. It involved the portrayal of sexual violence, the violent bondage of a woman and sexual bondage between two men with one violently hitting the other. This programme was likely to promote bondage, prostitution and violent sexual conduct thereby promoting the abuse of, and degradation of, women.

This programme portrayed Hector travelling overseas for devious sexual bondage activities and this would likely to promote other men travelling overseas as sex tourists, where they can do bondage and other activities. The broadcast portrayed activities illegal in Ireland, but by travelling overseas, they can do what they like away from the laws of Ireland, and thus it tended to undermine the authority of the State.

The broadcast was simply done in bad taste and indecent; and involved illegal activities.

### Station's Response:

TG4 submit that this series is the latest TG4 light-hearted travelogue in which Hector Ó hEochagáin takes a whirlwind tour of Australia, to see the sights, explore the vast spaces of that continent and meet with Irish people and those of Irish stock who live Down Under. It is scheduled and transmitted in a post-watershed slot on TG4. Hector is one of TG4's most popular presenters and his various series are well known for the presenter's

willingness to seek out the unusual and unfashionable and to ask the unexpected question of people, many of whom are not regulars on television. This is very much the hall mark of his Australian series.

In the edition complained of, Hector spends time with one of Ireland's best known exiles in Australia, Tadgh Kennelly. He was a major Gaelic football star with his native Kerry and has now become a major sports personality in Australia. In the programme Hector interviews Tadgh Kennelly during a tour of his adopted city. They chat about his life there, how he misses home, his achievement in winning the Grand Final with his Australian club in 2005. There follows a sequence in which Hector and Mr. Kennelly visit a sex/bondage club. This is very much portrayed tongue-in-cheek as an attempt to inflict some 'punishment' on the Kerryman in revenge for all the pain that Kerry footballers have inflicted on Hector's native Meath over the years. The sequence could not reasonably be interpreted as condoning or promoting illegal acts. The presenter regularly contrasts their surroundings in this club with those of a typical Gaelic footballer's social night out back in Ireland and it is clear that Mr. Kennelly is far from used to finding himself in such surroundings.

Mr. Norden's list of complaints infer that this sequence of the programme was specifically included to promote sex clubs and to encourage viewers to avail of their services and to participate in 'illegal' activities. This is clearly not the case. No activities that are illegal in Ireland or Australia took place during the recording and accordingly none were broadcast by TG4 in this sequence. Neither is there any encouragement or inducement to TG4 viewers to seek or participate in the sort of services available at this club. On the contrary, we feel that the portrayal of the activities and the quick escape that Hector and Tadgh eventually made from this establishment would quell any curiosity and defer anybody from entering such places.

TG4 totally reject the complainant's assertion that the programme would lead, or could be reasonably construed as attempting to lead, to persons in Ireland engaging in illegal or dangerous acts.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The section of the programme complained about relates to a scene in a bondage club during which the presenter Hector and his guest, Tadgh Kennelly, joke about in the club. The Commission would acknowledge that bondage equipment was in full view

and was used including a female ‘whipping’ the two men. The Commission noted that the tone at all times was humorous and flippant. Such humour is typical of the series and regular viewers would expect such content. While the Commission would acknowledge that the humour may not appeal to all tastes, given the nature and style of the programme, the expectations of the audience and the late-night broadcast slot, this broadcast was unlikely to cause widespread offence.

It was evident to the viewer that the two men were up-for-a-laugh and at no stage did they promote, or incite, other people to behave in a sexually deviant manner as asserted by the complainant. The presentation of the item was non-gratuitous and there was no degradation of men or women. The item was a light-hearted piece, based on the banter between the presenter and his guest. The location was incidental to the repartee between the two. The piece was sketch-like in nature, based on humour and at all times frivolous and jocular. The Commission would acknowledge that some may have found the humour puerile. However, it was innocuous, inoffensive and typical of the humour of the series. There was no evidence of incitement to commit illegal offences. The complaint was rejected with regard to Section 24(2)(b)(law & order, taste & decency).

**5.91** *Complaint made by: Ms. Maria Escribano*  
*Ref. No. 249/05*

**5.92** *Complaint made by: Mr. Hugh Harkin*  
*Ref. No. 265/05*

**Station:** RTÉ TV1  
**Programme:** The Late Late Show  
**Date:** 18 November 2005

### Complaint Summary:

**Ms. Escribano's** complaint, submitted under Section 24(2)(a)(impartiality) and (b)(law & order), refers to an interview with Walid Shoebat and a statement Pat Kenny made in front of possibly thousands of viewers. Ms. Escribano felt the interview was not in any way conducted impartially. She believes Mr. Kenny misrepresented Mr. Shoebat to the audience since the true nature of this character was hidden from the audience, namely the fact that Mr. Shoebat is a Christian Zionist who conducts speaking tours on behalf of Zionist organisations.

Ms. Escribano further states that Mr. Kenny's questions seemed to have been prearranged to facilitate answers

from Mr. Shoebat. In this process, Mr. Kenny produced his own views, reinforcing Mr. Shoebat's discourse and even adding new items that Mr. Shoebat never mentioned in his speech and that were an expression of opinion of Pat Kenny. Mr. Kenny said, without being called for, 'what is the future, though, I mean, if you've got, they say, 250 million people... who want an end to western civilisation". She feels this is a very serious and dangerous statement which was not in any way impartial and which was made by the presenter of the show standing alone as an irrefutable example of his lack of impartiality. This can be referred to as an 'incitement to hatred'. This statement was not extracted from Mr. Shoebat's speech, since Mr. Shoebat never mentioned any figure of people wanting to destroy western civilisation. It is interesting that 250 million people is actually the population of the Middle East: was Mr. Kenny suggesting that the whole Middle East wants to destroy Western civilisation? Mr. Kenny did not show any proof to back up such a statement, a proof that just cannot be produced.

**Mr. Harkin's** complaint under Sections 24(2)(a)(impartiality) and (b)(taste & decency and law & order, refers to an interview with Walid Shoebat on 'The Late Late Show'. He states Mr. Shoebat is a self-confessed "former terrorist". The interview was concerned with discovering "what motivates suicide bombers to kill". Mr. Shoebat focused on suicide-bombers' motivation as a purely religious one, and was allowed and encouraged to do so. In doing this, Mr. Shoebat littered the interview with numerous highly contentious and controversial claims regarding the political context of the Israeli-Palestinian conflict. Given the controversial issue being discussed, it was incumbent on Mr. Kenny at times to play devil's advocate, at least to make an effort at ensuring "balance". This was not done, and indeed, on a number of occasions, Mr. Kenny led and prompted Mr. Shoebat.

He further states that most egregious was one particular comment, volunteered by Pat Kenny, to the effect that : "*What is the future, though, I mean, if you've got, they say, 250 million people[...]who want an end to Western civilisation*". Mr. Harkin's complaint is that this statement reveals an editorial bias, and is both a racist and exceptionally irresponsible comment for the presenter of 'The Late Late Show'. While not stated explicitly, it is to be understood that the 250 million here are a religious group, namely Muslims. Mr. Kenny does not elaborate on what is meant by "an end to Western civilisation", but given that the interview's purpose is to "understand the mindset" of suicide bombers, then he thinks we are supposed to envisage this end as a violent one.

What Mr. Harkin finds most disturbing about this statement is the offhand manner in which it was delivered. This may make it seem less threatening – but he believes it is all the more dangerous. The effect on the trusting or impressionable viewer – given the Late Late and Mr. Kenny’s status - is that this sentiment (of fear or suspicion of Muslims) could be effectively imbibed. There may well be a case that this is unintended incitement to hatred. Mr. Harkin believes this statement was certainly not fair and balanced, and is indeed racist and irresponsible. Its delivery as an unfortunate matter-of-fact, coming from such an authoritative source as Pat Kenny, has the potential to encourage racist feeling against Ireland’s Muslim population. He strongly believes that it is a profoundly unhealthy notion that would view 250 million people as a homogenous, monolithic mass with designs on ending society. As a society, we cannot condone the espousal of such sentiments.

### Station’s Response:

RTÉ in their response state that Mr. Shoebat was introduced by the programme presenter, Pat Kenny, in the following manner “What goes through the mind of a suicide bomber?...Walid Shoebat was a terrorist.... he can understand the mindset of a bomber”. It is RTÉ’s view that the interview was conducted in a completely impartial manner and that at no time did Mr. Kenny express any of his own views. The introduction was not misleading. The presenter gave the guest the opportunity to express his views on the Islamic world. Mr. Kenny did not indicate his agreement or disagreement with the views Mr. Shoebat expressed. He allowed members of the audience to hear what Mr. Shoebat had to say and to make up their own minds. RTÉ cannot find anything in the programme that could remotely be described as inciting to crime or undermining the authority of the State.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. This complaint relates to the segment of the programme in which a guest, Mr. Walid Shoebat, spoke about his life and his opinions on the Islamic world. The viewer was made aware that Mr. Shoebat was a former terrorist. The viewer was also aware that the views and opinions expressed were from his own perspective. To explore the work of a prominent individual is a legitimate editorial decision for a broadcaster to make. This programme regularly interviews well-known people about their lives. The viewer is left to make his/her own

judgement. The presenter let Mr. Shoebat tell his story. The presenter’s style was relaxed and impartial and the tone of the interviewer was at all times temperate. While the Commission would acknowledge that the wording of the particular sentence in question was regrettable, the manner in which it was asked, and given the context of the whole interview, did not give rise to partiality or bias on behalf of the presenter. The Commission was of the opinion that the question was asked during this live broadcast simply to elicit information from the interviewee. The tone of the question was mild-mannered and could not be interpreted to be an incitement to hatred. The complaints were rejected.

**5.93** *Complaint made by: Mr. Rory Connor*  
*Ref. No. 123/06*

**Station:** RTÉ Radio 1  
**Programme:** Tonight with Vincent Browne  
**Date:** 2 May 2006

### Complaint Summary:

Mr. Connor’s complaint, submitted under Sections 24(2)(b)(law & order) and (a)(impartiality) concerns a broadcast of the ‘Tonight with Vincent Browne’ programme.

In the programme on May 2, the complainant asserts that three of the contributors to the programme, had made previous false allegations against the Christian Brothers. The complainant submits that once they were invited on the programme, the presenter had an obligation to quiz them about their previous allegations and their attitude to the Catholic Church.

He further submits that this programme on Daingean was vile; the presenter used witnesses who are grossly prejudiced; he made no attempt to test the credibility of their present or past claims and no attempt to bring out the other side of the story. To falsely accuse someone of child abuse is bound to create hatred and Browne’s guests were peddling hatred of the Catholic Church, which is specifically in breach of the Prevention of Incitement to Hatred Act. Accordingly, he requests the Commission to find RTÉ are not only in breach of their obligations regarding objectivity, impartiality and fairness, but also in their duty in relation to law and order (specifically the Prevention of Incitement to Hatred Act).

### Station's Response:

RTÉ state that the programme that has led to this complaint was devoted in its entirety to descriptions of life in Daingean Reformatory before it was shut down in the 1970s. The programme opened with a lengthy description by the writer Mannix Flynn of the physical punishment he received as an inmate in Daingean in the 1960s. The next interviewee was Hugh Connolly who had been a trainee in Daingean in 1957-58. He also gave an eye-witness account of savage beatings he saw during his period in Daingean. The next contributor to the programme was Mary Rafferty, a writer and television producer. The final part of the programme was a recorded piece with John Kelly, another former inmate of Daingean who recounted his experiences in Daingean during two years he spent there in the 1960s.

It is RTÉ's view that the programme was an accurate and factual account by reliable witnesses and researchers into events that took place in Daingean in the 1960s. RTÉ has no reason to doubt the truth of what the contributors to the programme stated about the conditions in Daingean. The broadcaster asserts that there was no breach of law and order requirements broadcast in the programme. They also assert that the programme was impartial and fair. It is RTÉ's view that the programme presenter invited onto the programme a number of witnesses and asked them to recount their first hand experiences. He did this in an impartial and objective way. The events described in the programme elicited an emotional response from the programme presenter. In the circumstances of the cruelties described this is not surprising and is not an indication of partiality.

RTÉ would argue that in their own small way the programme has contributed to the establishment of truth and the acknowledgement that former inmates of institutions such as Daingean are entitled to be able to tell their own stories and that Irish society must listen to them and acknowledge the truth of what happened.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The programme discussed what life was like in the former Reformatory School, Daingean. The panellists on the programme included two men who had been sent there as boys in the 60s and 70s; a man who had been a trainee in Daingean in the late 50s; and a journalist who researches and writes about such issues. The journalist informed the listeners that government records show that abuse took place in Daingean. The Commission would acknowledge that this is accepted as fact.

At the outset of the broadcast, the listener was aware that three of the panel members would recount their experiences. The accounts were from their perspectives, as they experienced and remembered. The presenter allowed them tell their stories. Such subject matter is of great public interest and its inclusion in a programme is a legitimate editorial decision. The issue of abuse is an emotive one, which was dealt with in this programme in a grave and responsible manner.

The accounts given of life in Daingean were harrowing and shocking. However, they were the true-life experiences of the men, part of their life stories. Freedom of speech is an important right and one which applies to all citizens. Also, editorial responsibility as to who participates in a programme is that of the broadcasters. What is of importance to the Commission is that the interviews were conducted in a fair manner. The Commission was of the opinion that this discussion legitimately explored the true-life subjective experiences of two inmates and a trainee of the former Reformatory School, Daingean. The presenter facilitated an informative and fair discussion. The tone was at all times respectful. He asked questions to elicit information on their lives in an impartial manner. At no stage in the broadcast was hatred against the Church advocated. This complaint was rejected with reference to Sections 24(2)(b)(law & order) and (a)(impartiality) of the Broadcasting Act, 2001.

**5.94** *Complaint made by: Mr. Patrick Bane  
Ref. No. 86/06*

**Station:** FM 104  
**Programme:** Mobile Money Game  
**Date:** 4 April 2006

### Complaint Summary:

Mr. Bane's complaint, under Section 24(2)(c)(privacy) of the Broadcasting Act 2001, refers to a game on FM104 called the 'Mobile Money Game'. At 6.20pm Mr. Bane's 'phone started ringing and for the next 40 minutes he continued to receive continuous calls and texts saying that his number had been called out on FM 104 and that he had won €2,000. Some of the texts told him to text "cash and his name and location to 087 xxxx104" which he did. Later that evening, he received calls asking if he had won and suggested that the callers should be considered for a reward for alerting him. The calls continued for about three days. On the morning of 5 April 2006 he rang the station and spoke to "Claire" who was in charge of competitions. She said that he had not won anything and that his number had

not been called out on their station. Mr. Bane refused to accept this. He then spoke to “Andy” who at first continued this line of denial saying that one number per hour was called out but not a seven digit number at any time. Andy then pointed out that no prefix was given and that it could be 085 or 086 as well as his own 087. Mr. Bane checked this out and discovered that there is no 085 or 086 with his own number. Andy rang back in the afternoon to apologise and offered a CD gift pack which Mr. Bane declined.

Mr. Bane states he has this mobile number since 1995 and this type of incident has never happened before. He regards what happened to him as a gross invasion of his privacy and found it very upsetting. He is left now with a number of people who have his number; who believe he won €2,000 and feel that he should reward them for alerting him. He is also of the impression that no “prize” was being awarded and that this exercise was a scam. He dreads to think what effect a similar incident would have on an elderly person living alone whose mobile phone is their lifeline.

### Station’s Response:

FM 104 state that the complaint refers to a fun promotion called “FM 104’s Mobile Money Game”. This game is similar to bingo on the radio using mobile telephone numbers as the “playing cards”. Every day during the promotion and every hour from 8am they call out a single digit number, picked at random using a machine in their on-air studio. Throughout the day, they continue to call/pick numbers and ask listeners to write the numbers down. If the numbers called out match the seven digits that make up a listeners’ mobile phone number, in any order, excluding the prefix 085/086/087 they can text their name and location to their competition line. They pick the very first text in with the correct combination of numbers, which they specify can be in any order.

On the day in question, they called out a completely random series of numbers, which matched Mr. Bane’s number. While there is a high probability that the random numbers will match some ‘phone number in any order, there is a very small chance, 1 in 10,000,000, that the first seven digits called out will match any number in exact order.

The game has only ever been won by mixed order numbers and not exact numbers. Quite often, they have had more than one potential winner entering the competition but the prize is given on a first come first served basis. Unfortunately, Mr. Bane did not send a text to 53104, and so did not enter the competition. He

claims that he sent a text to 087 xxxx104. They have no way of confirming this fact as it is not their competition number and has not been in operation for over a year. 53104 has been their sole text competition line for over a year. FM104 believes Mr. Bane did receive unsolicited calls and they apologise for any inconvenience caused. FM104 cannot accept responsibility for the actions of third parties. They strongly rebuke the accusation that in Mr. Bane’s words the “exercise is a scam” – having given away €30,000 in this promotion. FM104 have run this and similar promotions in the past without complaint. They did not set out to infringe his privacy. They did not identify him on-air and, to the extent that he was capable of being identified by the numbers called out, they were expressly read out on a basis that they were not in any particular sequence.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. This complaint relates to FM104’s ‘mobile money game’. On hearing the broadcast, the Commission noted that when the numbers were called out it was clearly stated that they were in no particular order. The presenters stated: -

‘This is what you need to know now, if they appear in any order whatsoever on your mobile phone number, excluding the prefix, all you’ve got to do is text the word cash followed by your name and location now to 53104, from the winning phone and the first text in with all the correct numbers in any order gets the €2000, the best of luck. The numbers again.....’

*‘If these numbers are in your mobile phone number in any order excluding your prefix... you win €2000’.*

Under the broadcasting legislation, a broadcaster is required to ensure that *‘in programmes broadcast by him, and in the means employed to make such programmes, the privacy of any individual is not unreasonably encroached upon.’* In this broadcast item, the broadcaster did not mention any person’s name on-air. There was also no reference to any particular person having that phone number. It was stated that the numbers could be in any order. On listening to the competition, the Commission is of the opinion that the listener would discern that the numbers weren’t supposed to be in any particular sequence. Neither the complainant’s name nor his mobile number were directly referred to in the broadcast. This item could not be considered to have unreasonably encroached

upon the privacy of the individual. The complaint was rejected with reference to Section 24(2)(c)(privacy) of the Broadcasting Act 2001.

**5.95** *Complaint made by: Mr. George Mordaunt  
Ref. No. 101/06*

**Station:** Tipp FM  
**Programme:** Tipp Today  
**Date:** 28 April 2006

### Complaint Summary:

Mr. Mordaunt's complaint, under section Sections 24(2)(c)(privacy of an individual) and (f)(slander), refers to a broadcast on Tipp FM in which a lady who bought a vehicle from Brian Mordaunt & Sons (where he works) was interviewed and explained the problems she had encountered with the purchase of the vehicle. Mr. George Mordaunt complains that this lady was given a fictitious name when she went on air, yet he was not given this choice. Mr. Mordaunt claims the individual being interviewed was allowed, by the presenter, to refer to his character in a negative manner. Furthermore, he believes no research or effort was made by the station to gain the full facts before going on-air. This interview, therefore, could not be described as being fair simply because the interviewee was granted anonymity but the company and Mr. Mordaunt were not treated in the same manner. He asks, 'how can one party be given anonymity while the other is not?' The complainant believes the station should have made greater efforts to establish all that facts from both parties before going on-air. As this was not done, Mr. Mordaunt believes the item lacked balance. He does not believe that in any professional capacity any individual could seriously think that any aspect of the interview was professional, informative, balanced or comprehensive.

### Station's Response:

Tipp FM submits the station fulfilled its remit in the interview in question to provide fair and impartial coverage of a consumer issue. The station submitted the following : -

1. The interview was honest and that the presenter acted as an Honest Broker throughout the interview. Indeed he contacted Mr. Mordaunt prior to the broadcast so as to alert him to the upcoming interview and invited him to give his side of the story and to clarify certain points in the interest of balance.

2. The presenter was fair throughout and frequently cut across the lady to make sure that what she was saying was factually correct and fair. He also stopped her in her tracks when she made any comments, which were not directly relevant to the consumer issue at the core of this piece.
3. Mr. Mordaunt was given the opportunity to present his side of the story but declined to do so.
4. The presenter handled the interview in a fair manner and acted as a facilitator throughout. At no time did he take the side of the lady.
5. The presenter promised to check with the Director of Consumer Affairs whether or not an automatic right of refund exists when there is a problem with a product. This was subsequently done and the reply was aired on the next edition of 'Tipp Today'. The presenter challenged the lady in relation to her assertion that automatic replacement was her right and this caution by the presenter proved to be correct.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The broadcaster interviewed a woman caller on-air concerning the purchase of a vehicle from a local garage. The Commission noted that the garage was mentioned and that in the course of the interview the caller was granted anonymity. It is unclear to the Commission why she was not initially identified (she was so identified at the end of the broadcast) but believe that this is an editorial decision the broadcaster is entitled to make. What is of importance to the Commission is that the interview was conducted in a balanced and fair manner. The Commission is of the opinion that the presenter facilitated a fair and balanced discussion. He clearly stated at the outset that the listener would hear the views of the caller only. He challenged and questioned her assertions throughout the piece and stated that she should sit down and talk through the issues with the garage owners.

In the course of the piece he also stated that he had spoken to someone at the garage and he used information they had given him to challenge the assertions of the caller. This included the questioning of her claim that she had paid for an electric lift as opposed to a manual lift (ramp). The presenter pointed out that according to the garage owners there is a substantial difference between the cost of a ramp and a lift. The Commission also noted that he stated he would clarify

a claim the caller made concerning advice from the Office of the Director of Consumer Affairs. This was subsequently done and the clarification was aired by the station. The Commission also noted that Mr. Mordaunt was given air-time at the end of the broadcast. While he did not want to speak about the subject matter of the interview, he was given the opportunity to express his opinion on it. He clearly expressed his concern about the anonymity granted to the caller and not to the garage. He asserted that the station and the presenter had acted in a very unprofessional manner. He also asserted that the interview contained inaccuracies, a large percentage of which was untrue. After Mr. Mordaunt had finished speaking, the presenter identified the caller.

The Commission could understand the re-action of the complainant to the item. It was a discussion about a newly purchased vehicle with which the purchaser subsequently had a difficulty and which is now the subject of a dispute. The issue related to a business deal. The caller had a right to tell her side of the story, whether a representative from the garage participated or not. The Commission was of the opinion that the presenter challenged the caller and facilitated a fair and balanced interview. The matter discussed was in relation to the garage only and the caller's dealings with them. The owners were offered a right of reply. Therefore, the Commission is of the opinion that this item could not be considered to have unreasonably encroached upon the privacy of the individual. There was no evidence of an assertion which constituted an attack on the honour or reputation of an individual. The complaint was rejected with reference to Sections 24(2)(c)(privacy) and (f)(slander) of the Broadcasting Act 2001.

**5.96** *Complaint made by: Mr. John A. Waters  
Ref. No. 206/05*

**Station:** RTÉ Radio 1  
**Programme:** Marian Finucane Show  
**Date:** 6 November 2005

### Complaint Summary:

Mr. John A. Waters' complaint, submitted under Section 24(f)(slander), refers to a comment made by a panellist on the 'Marian Finucane' show of 6 November 2005; 'Customs officials are a law unto themselves', 'They are not accountable to anybody'. Both of these statements are totally false and misleading. None of the panellists dissented from these statements nor did the presenter. The complainant is a retired Customs Official and he was deeply insulted by, what he claims to be, slanderous remarks.

### Station's Response:

RTÉ in their response state that the particular section of the programme in question involves a studio panel reviewing the Sunday newspapers. Professor Niamh Brennan, a panel member, referred to a report on the impounding by customs officials of a wedding dress which had been posted from Australia to Ireland. The custom officials thinking the dress was new were seeking a VAT payment. It emerged however that the dress had been made in Ireland and brought to Australia by the bride, who had it then posted back to Ireland. Professor Brennan gave her opinion that local officials were 'a law unto themselves' and treated 'tax-payers like dirt'. The complainant states that these comments were slanderous. From a legal perspective it is not possible to slander such a large group as the hundreds of customs officials in the country through a generalised remark such as that of Professor Brennan's. The complainant is himself a retired customs official. Therefore, Professor Brennan clearly couldn't have had Mr. Waters in mind when she made this remark. In addition RTÉ, without making any comment on what Professor Brennan said, would argue that she was simply expressing an opinion and that she is entitled under basic freedom of expression and freedom of opinion to say what she thinks. RTÉ can appreciate that Mr. Waters may feel aggrieved by what Professor Brennan said, but is fully confident that none of RTÉ's statutory obligations in regard to slander were breached. This complaint should not be upheld.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint made by Mr. John A. Waters was made with reference to Section 24(2)(f)(slander) of the Broadcasting Act 2001. The context in which the comments were made was a review of the Sunday newspapers and the presenter asked the panellists to discuss the article that caught their attention. One of the panellists selected the story of the impounding of a wedding dress by custom officials. During the discussion she stated that she shared the opinion expressed in the article that 'custom officials are a law unto themselves'. While the points of view put across were critical, there were no specific references made that would identify any particular custom official/person. As there were no individuals named or identifiable in this broadcast, the broadcasting regulation concerning slander does not apply. Therefore, the Commission was not in a position to make a determination on this complaint.

**5.97** Complaint made by: Mr. Pat McNamara  
Ref: 162/05

**Station:** RTÉ TV1  
**Programme:** Competition on The Late Late Show  
**Date:** 17 September 2005

### Complaint Summary:

Mr. McNamara's complaint, submitted under Section 24(2)(e)(commercial promotion codes) refers to The Late Late Show and the way a competition was conducted. Mr. McNamara contends that the competition, as carried out on this particular night, is invalid since the published conditions were not met. He states that the competition was described on air and by text reply message to those who entered and on Aertel, as a competition that would be won by a person who correctly answered a question, then supplied their name and telephone number and then being present to answer the phone when presenter, Pat Kenny, would ring. On the 17 September, Mr. McNamara entered the competition, supplied the correct answer, received a text acknowledgement and sat back waiting to personally answer the phone call as this was a condition of winning. The text message he received was as follows:

*"Thanks for entering. Pat will ring the winner at the end of the show and you **must answer the call** to win a prize."*

He claims he was not afforded this option because Mr. Kenny announced the winner without making any phone call. Therefore he was prevented from competing for the prize because the rules, as broadcast several times during the programme, were not followed. Mr. McNamara believes the competition, as conducted on the night in question, is invalid.

### Station's Response:

RTÉ state that it is normal practice on the programme to phone the person whose entry has been drawn from a container holding all the valid entries. On occasion when another item on the programme's running order over-runs, this part of competition is dispensed with. The winner is simply announced. The chance of any one entry winning is not diminished in any way. The exact same method of random selection applies.

Under the terms and conditions for the prize, which are outlined on the RTÉ website, it is stated:

*"14. RTÉ reserves the right to cancel, terminate, modify or suspend a competition and/or to vary these terms and conditions at any time without prior notice"*

RTÉ believe it was within its rights in announcing the winner of the prize in the manner in which it did. The competition was administered with absolute probity and any audit of competitions would confirm this.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The complaint made by Mr. Pat McNamara has been rejected with reference to Section 24(2)(e)(commercial promotion codes) of the Broadcasting Act 2001. The Commission was of the opinion that RTÉ did not infringe the commercial promotion codes. The Commission notes that the presenter did not call the winner at the end of the programme as he stated he would on a number of occasions during the programme. Instead, at the end of the programme he named the winner and said that due to time constraints he was not in a position to call the winner. The Commission was of the view that the broadcaster's intention was to call the winner and that the vagaries of live broadcasting resulted in him being unable to do so on this occasion. This did not impact on the chances of an entrant to win the prize. The Commission observed that it would be preferable for all concerned, that the winner is telephoned by the presenter when that is the contention made during the programme; or that words such as time permitting or similar expressions are used. The complaint was rejected.

**5.98** Complaint made by: Mr. Diarmuid McElligot  
Ref. No. 218/05

**Station:** TV3  
**Advertisement:** Advert – Lacoste Pour Homme  
**Date:** 19 November 2005

### Complaint Summary:

Mr. McElligot's complaint, submitted under Section 24(e)(advertising codes), relates to an advertisement for 'Lacoste Pour Homme' which he found offensive. There was a full length view of a naked man in the advertisement. This advertisement was shown at a time when families were watching television and his two young girls (aged 7 & 11) were appalled and shocked to 'see a man's butt on the TV' (to quote his 7 year old).



### Station's Response:

TV3 in their response state that the advertisement referred to does show the back of a naked man, completely in context. The advertisement is for male cosmetics and is shot in black and white in an art house style. Appropriate classical music is also used. The product is aimed at a sophisticated audience. TV3 does not have children's programming and its programming is aimed at an adult audience. The programming at this time on a weekend evening is primarily 'sitcom' in nature and is aimed at a mature audience and deals with adult situations.

### Advertiser's Response:

The advertising agency states that it is not aware of any time restrictions/watershed placed on their 'Lacoste Pour Homme' advertising on TV3. They would advise that if the advertisement is upsetting viewers, the broadcaster should take another look at the copy to see if it needs restrictions placed on it.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant, the broadcaster and the advertiser. The complaint made by Mr. Diarmuid McElligot has been rejected with reference to Section 24(2)(e)(advertising codes) of the Broadcasting Act, 2001. In reaching this decision, the Commission had regard to the time of broadcast and the non-gratuitous nature of the advertisement. In regard to the content of the advertisement, the brief images of the naked man were not used in a provocative, gratuitous or indecent manner. They were simply brief images of a naked man from the back as he went around his home. Given the time of the broadcast and the non-provocative nature of the content, the Commission was of the opinion that this advertisement would not cause widespread offence. The complaint was rejected.

**5.99** *Complaint made by: Mr. Denis Shields*  
*Ref. No. 246/05*

**Station:** RTÉ 1  
**Advertisement:** Advert – Dettol  
**Date:** 3 December 2005

### Complaint Summary:

Mr. Shields' complaint, submitted under Section 24(2)(e)(advertising codes), relates to an advertisement for Dettol. He submits that this advertisement very strongly and completely unproven hammers home to the unfortunate listener (him) the idea that if he swabs his home or other surfaces with Dettol, it will reduce the chances of him and his loved one getting the common cold. This is completely unproven. It is unfair, misleading and confusing. It will lead to people purchasing a product to prevent the common cold that does not prevent the common cold.

### Station's Response:

RTÉ in their response state that their internal Copy Clearance Committee accepted in good faith the claims made for Dettol and cleared the advertisement for broadcast. Upon receiving this complaint, RTÉ asked the agency responsible for the advertisement for substantiating evidence for the claims made in the advertisement. The substantiation documentation was submitted to the BCC.

### Advertiser's Response:

The advertiser submitted the substantiation material for the claim that '...Dettol disinfectant spray kills 99.9% of germs including the cold virus'.

### Decision of the Commission:

The Commission considered the broadcast and the submissions made by the complainant, the broadcaster and the advertiser. The complaint made by Mr. Denis Shields has been rejected with reference to Section 24(2)(e) (advertising codes) of the Broadcasting Act 2001. On hearing the advertisement, the Commission was of the opinion that the advertisement communicated the message that Dettol kills germs on surfaces, thereby reducing germs in the home. The script of the advertisement includes the lines; '*Fact, colds can be passed on by touching surfaces. When sprayed on surfaces Dettol Disinfectant Spray kills 99.9% of germs including the cold virus*'. The Commission was of the view that the listener would not discern from the advertisement that Dettol would prevent the common cold in the household. The message given is it would lead to cleaner, more hygienic surfaces. The complaint was rejected.

**5.100 & 5.101** Complaints made by: Mr. Michael McLoughlin Ref. Nos. 03/06 & 04/06

**Station:** RTÉ 2  
**Advertisement:** Advert – Amstel Beer  
**Date:** 20 December 2005

**Advertisement:** Advert – Heineken Beer  
**Date:** 3 January 2006

### Complaint Summary:

Mr. McLoughlin's complaints, under Section 24(2)(e)(advertising Codes), refers to advertisements for Amstel Beer and Heineken Beer shown during episodes of 'Friends' at 7.13pm. Mr. McLoughlin states that this slot is clearly aimed at children and young people in violation of section 15(e) of the *Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in the broadcasting service*. He also points out these advertisements were transmitted in a programme carrying the "TTV" brand logo (a children's programming brand).

### Station's Response:

RTÉ in their response state that the Code of Alcohol Advertising, which the Minister of Health has endorsed, states that the advertising of alcohol is not permitted in any programme where more than 33% of the audience is under the age of 18. The percentage of the audience under 18 years of age viewing Friends averaged 27%. This means RTÉ fully conformed to the Code.

RTÉ does not permit the advertising of alcohol before 7.00pm on RTÉ 2 on weekdays or before 2.00pm on weekends. These measures are taken to ensure that young people are not exposed to excessive alcohol advertising.

### Advertiser's Response:

Heineken Ireland's media buying agency, MindShare endorse RTÉ's policy in respect of percentages watching programmes under the age of 18. Heineken Ireland's internal policy is even more stringent than the 33% industry standard and on their behalf MindShare consistently monitor programmes such as Friends that they feel might become "borderline". They monitor programme profiles on a monthly basis and exclude any programme that is not in line with their internal policy.

Heineken Ireland and MindShare take the Code of Alcohol Advertising very seriously and ensure that all profiling and targeting is in line with these.

### Decision of the Commission:

The Broadcasting Complaints Commission considered the broadcast material, the submissions made by the complainant, the broadcaster and the advertiser. The Commission noted that 'Friends' is not within the category of children's programming. The audience profile is not dominantly younger viewers. Therefore, the Commission was of the opinion that the broadcast time for this advertisement complied with the relevant codes and in particular, Section 15(e) of the *Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting service*. This section prohibits the transmission of advertising alcoholic drink in or around programmes primarily intended for young viewers or listeners. As the programme 'Friends' is not aimed at the younger viewer, it was acceptable to advertise alcoholic drinks during the programme. The Commission has rejected the complaints made by Mr. Michael McLoughlin with reference to Section 24(2)(e)(advertising codes).

**5.102** Complaint made by: Mr. Arnie Poole Ref. No. 55/06

**Station:** RTÉ TV1  
**Advertisement:** Advert - Murphy's Stout  
**Date:** 17 March 2006

### Complaint Summary:

Mr. Arnie Poole's complaint, submitted under Section 24(2)(e)(advert codes), refers to an advertisement for Murphy's stout that was broadcast just after 8 am on St. Patrick's day. The grounds of the complaint are that on a public holiday at approximately 8 am in the morning, more children than adults will be watching TV as they have the day off school and will be watching cartoons as parents get a well-earned rest. No alcohol related advert should have been put on TV at this time of day.

### Station's Response:

RTÉ states that the advertisement was broadcast during an episode of 'Neighbours' on St. Patrick's Day. The Code of Alcohol Advertising, which the Minister of Health has endorsed, states that the advertising of alcohol is not permitted in any programme where more

than 33% of the audience is under the age of 18. The percentage of audience under the age of 18 watching 'Neighbours' at 07.55 to 08.20 was 10%. This means RTÉ fully conformed to the code. RTÉ monitors the age profile of this programme to ensure that the number of viewers under the age of 18 does not exceed the maximum permitted by the code. 'Neighbours' cannot be classified as a children's programme. Also, RTÉ does not permit the advertising of alcohol before 7 pm on RTÉ 2 on week days or before 2 pm on week ends or at any time on RTÉ 2FM. These measures are taken to ensure that young people are not exposed to excessive alcohol advertising.

### Decision of the Commission:

The Broadcasting Complaints Commission considered the broadcast material, and the submissions made by the complainant and the broadcaster. The Commission noted that this broadcast of 'Neighbours' was not within the category of children's programming. The audience profile was not predominantly younger viewers. Therefore, the Commission was of the opinion that the broadcast time for this advertisement complied with the relevant codes and in particular, Section 15(e) of the *Codes of standards, practice and prohibitions in advertising, sponsorship and other forms of commercial promotion in broadcasting service*. This section prohibits the transmission of advertising alcoholic drink in or around programmes primarily intended for young viewers or listeners. As this broadcast of 'Neighbours' was not aimed at the younger viewer, it was permissible to advertise alcoholic drinks during the programme. The Members of the Commission expressed concern about advertising alcohol at that time of the morning. However, it was within the confines of the relevant advertising code. Therefore, the Commission rejected the complaint made by Mr. Arnie Poole with reference to Section 24(2)(e)(advertising codes) of the Broadcasting Act 2001.

**5.103** *Complaint made by: Mr. Ray Di Mascio*  
*Ref. No. 59/06*

**Station:** RTÉ  
**Advertisement:** Advert - Bank of Ireland Mortgage  
**Date:** March 2006

### Complaint Summary:

Mr. Ray Di Mascio's complaint, under Section 24(2)(e)(advert codes), refers to an advertisement for a Bank of Ireland mortgage. The complainant states that in the advertisement a young couple are getting out of a taxi thinking 'oh, don't let them [the parents] be up'. The product, 'get a place of your own with a Bank of Ireland mortgage'. This advertisement is aired during the daytime. The message to young people is clear: if you want to have unmarried sex, get a mortgage.

### Station's Response:

RTÉ states that the complaint refers to an advertisement in which an adult couple arrive in a taxi back to the home of the male's parents. He notices that the parents are up and he wishes he had a home of his own. Various versions of this advertisement based on the same theme have been broadcast for more than two years. There have been three earlier complaints to the BCC about these advertisements. In all cases the complaints were resolved when the complainants received the submissions of RTÉ and Irish International, the agency responsible for the campaign. Initially RTÉ restricted the broadcast of the advertisements and did not permit them to be broadcast in children's programming. The reason for this was that the original advertisement contained some passionate kissing in the back seat of the taxi. Later versions of the advertisement cut out these scenes and in these circumstances RTÉ's Copy Clearance Committee imposed no restrictions on the broadcast of the advertisement. Any sexual innuendo would be over children's heads. It is RTÉ's view that the advertisement that has led to this complaint contains no images or messages that would require any restriction on the broadcast.

### Advertiser's Response:

The advertiser, Irish International BBDO submits that the complainant's concern is without foundation. It is the complainant's view that the advertisement gives the following message to young people: 'if you want to have unmarried sex, get a mortgage'. The advertisement cited is one of a series of TV advertisements from the Bank of Ireland that reflect an understanding of the customers needs at various stages in their life. Their need is then matched with a relevant product offering from Bank of Ireland. The series includes:

1. a young man in an office environment reflecting the need for a car.

2. a vet on the job in her late 30s, reflecting on the need to begin investing her 'hard earned money'.
3. a man in his 30s picking his child up from a crèche, realizing he needs to start putting extra money away for the child's education.

The advertisement referred to by the complainant reflects a realistic moment where a man in his late 20s realises he has outgrown the family home and starts thinking about buying a place of his own. The realisation is triggered by his embarrassment regarding still living with his parents at his age, which is highlighted when he invites someone back to his house for coffee. It is the intention of the bank to demonstrate it understands the reality of their customer's lives reflecting real life situations that motivate the need for their products, and nothing more.

### Decision of the Commission:

The Broadcasting Complaints Commission considered the broadcast material, the submissions made by the complainant, the broadcaster and the advertiser. The Commission noted that this advertisement includes a scene where a couple arrive in a taxi at the home of the man's parents after a night out. The viewer is informed that he regrets the fact his parents are still up and wishes he had his own place. The advertisement then goes on to describe a mortgage product on offer from the bank. The Commission was of the opinion that the content of this advertisement was innocuous. The scene and tone of the advertisement were matter-of-fact, realistic in nature with no evidence of sexually offensive material. There was no sexual innuendo evident as asserted by the complainant. The content was within acceptable standards. The Commission has rejected the complaint made by Mr. Ray Di Mascio with reference to Section 24(2)(e)(advertising codes) of the Broadcasting Act 2001.

**5.104** *Complaint made by: Ms. Eva Birdthistle  
Ref. No. 72/06*

**Station:** RTÉ TV1  
**Advertisement:** Advert - Lucozade (zombie dance)  
**Date:** 2 April 2006

### Complaint Summary:

Ms. Birdthistle's complaint, submitted under Section 24(2)(e)(advertising codes), refers to an advertisement for Lucozade (Zombies). She states her daughter finds the current Lucozade advertisement very frightening. As soon as the music comes on, she screams and runs from the room and Ms. Birdthistle has to turn off the TV for the evening. Although the advertisement has been modified pre-9.00 p.m. screening, she states it is still extremely scary and the damage has already been done by the original advertisement. In her opinion, after 9.00 p.m. airing would be more suitable.

### Station's Response:

RTÉ state that Ms. Birdthistle is one of a number of complainants about the current "Zombie" Lucozade advertisement. The full version of this advertisement is broadcast after the watershed at 9.00p.m. A shorter edited version of this advertisement is broadcast post 7.00 p.m. This version excludes many of the more gruesome images included in the longer version. Ms. Birdthistle's complaint is about the shortened version between 7.00 and 9.00 p.m.

After the BCC decided that the longer version of the advertisement should not be broadcast until after 9.00 p.m., the advertising agency responsible for the campaign submitted a cut down version of the advert to RTÉ's Copy Clearance Committee. After due consideration, the Committee took the view that the shorter version was suitable for an earlier transmission slot and cleared it for broadcast after 7.00 p.m. This decision was based upon the fact that none of the more gruesome images from the longer version were retained and it was felt that it was suitable for family viewing (which predominates in the 7.00 – 9.00 p.m. period).

### Advertiser's Response:

The original 30 second Zombies television advertisement was ruled with a 9.00p.m. airing. Since then, they have developed a new Zombie 'dance' advertisement for Lucozade. In this new advertisement, they have removed all close up shots of the Zombie faces and bodies. The new advertisement shows images of the zombies dancing energetically to an upbeat music track, in a similar style to that of any music video that is on television. The introduction of a new music track removes the reference to the original advertisement and further heightens the energetic nature of this advertisement. They believe that the change in content in the new advertisement changes the tone significantly and makes it suitable for broadcast for 7.00 p.m.

The new 'dance' advertisement was approved by RTÉ and the Broadcasting Advertising Clearance Centre. They also sent the advert to the pre-vetting service of the Advertising Standards Authority of Ireland and their views were that it was okay to air. For both advertisements, they have only purchased airtime which is specifically around programmes intended for 18-34 year olds.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant, the broadcaster and the advertiser. The Commission noted that this advertisement was a moderated version of the advertisement considered by the previous Board of the Commission in September 2005. While the advertisement is still based on Zombies, the graphic imagery prominent in the original advertisement has been removed from this particular version. The Commission was of the opinion that this re-edited version is acceptable given that; the scary graphic imagery in the original copy has been removed; the advertisement is broadcast after 7 p.m.; and the advertisement is not broadcast during children's programming. In this context, the Commission is of the view that the advertisement is within acceptable standards. The complaint was rejected with regard to Section 24(2)(e)(advertising codes) of the Broadcasting Act 2001.

**5.105** *Complaint made by: Mr. Barry McSweeney*  
*Ref. No. 82/06*

**Station:** RTÉ TV1  
**Advertisement:** Advert - Eircom Broadband  
**Date:** 7 April 2006

### Complaint Summary:

Mr. McSweeney's complaint, submitted under Section 24(2)(e)(advertising codes), refers to an Eircom advertisement that he believes is dishonest and misleading. He submits that Eircom advertise their broadband service without qualifications, and fail to say that the service is not available in many parts of the country. Broadband is not available in North Sligo and there is no prospect of the local exchange being upgraded: can you imagine the frustration felt at seeing the advantages of broadband being promoted by the company which will not provide it locally through the telephone network and is blocking other companies from doing so. Eircom should be compelled to add

a rider to their advertisements, making it clear that broadband is not universally available.

### Station's Response:

RTÉ state that this complaint refers to sponsorship stings for Eircom's broadband services broadcast around RTÉ's weather forecasts. The complainant calls them advertisements. RTÉ regards them as sponsorship stings.

Mr. McSweeney's complaint is that the broadcasts do not mention the fact that the percentage of households serviced by Eircom broadband is quite limited and that the service is not available, according to Mr. McSweeney, in 84% of Irish households. RTÉ is unaware of any obligation in the Departmental Code to inform members of the audience that a service being advertised is not universally available. The broadcast does not make any claim of universal availability or indeed any level of availability. RTÉ does not believe therefore that the broadcasts are untruthful. To sustain Mr. McSweeney's complaint it would be necessary to show that the broadcasts failed the test of truthfulness.

### Advertiser's Response:

No response was submitted.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that the broadcaster submits that the broadcast items in question are sponsorship stings. The Commission also noted that the message of the stings was accurate. There are no claims made relating to the availability of the service. Under the sponsorship codes, there is no stipulation that such an aspect of a product or service has to be referenced to in the sting. The Commission was of the opinion that the sponsorship stings as broadcast were accurate and that there was no evidence of misleading content. The complaint was rejected with reference to Section 24(2)(e)(advertising codes) of the Broadcasting Act 2001.

**5.106** *Complaint made by: Mr. Tom Owens*  
*Ref. No. 114/06*

**Station:** RTÉ TV1  
**Advertisement:** Advert - Moro  
**Date:** 16 May 2006

### Complaint Summary:

Mr. Owens' complaint, submitted under Section 24 (2)(e)(advertising codes), refers to a television advertisement for Moro chocolate bars, which he found to be offensive, tasteless, indecent and downright perverse. He is mystified how this filth ever got the approval from decent RTÉ staff.

### Station's Response:

RTÉ submit that the advertisement is intended to be a joke. A young man is at a party eating in an exaggerated manner a Moro chocolate bar. He thinks people fancy him as they look towards him, an attractive girl, a gay man and then an older woman all look towards him. One of his companions when they notice him staring at the older woman tells him 'that's my mother'. Another companion then says in a leering manner 'dirty'. The advert ends with a dog mounting the young man's leg.

RTÉ's Copy Clearance Committee decided to restrict the broadcast of this advert and not allow it to broadcast in children's programmes. The view was taken that most viewers would appreciate that the whole advertisement was one big exaggerated joke and would have accepted it in the spirit for which it was intended. The principle character, the young man eating the Moro, is cast as a 'geek', certainly not the kind of young man who is likely to catch the attention of females at a party. The product, a bar of chocolate, is not something which one associates with sexual prowess. RTÉ believed the advert was suitable for broadcast during family viewing. It was felt that any of the innuendo in the advert would be above the heads of the younger viewers who might be watching with their parents.

### Advertiser's Response:

QMP Publicis submit that this commercial was submitted and cleared by the relevant copy clearance committees. It was extensively researched prior to production and would not have been made was it deemed to cause offence, as this would have been counter-productive.

The commercial is never aired during children's programming or any programme that would attract a large children's audience.

As of the 30 May 2006 the commercial has now been on air for more than two weeks, 539 spots have been broadcast and to the advertiser's knowledge, only two consumers have complained. In this regard, it has not, on the evidence they have to hand, caused grave or widespread offence.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant, the broadcaster and the advertiser. This advertisement is for a Moro chocolate bar. The setting is a party at which a man is eating a Moro bar and as he scans the room, he thinks various people fancy him. The Commission noted that many viewers may not find the advertisement funny. However, it is evident that the tone and content is based on humour. While this humour may not appeal to all tastes, the Commission was of the opinion that it was unlikely to cause widespread offence. The Commission also noted that the advertisement is not broadcast during children's programming. Given the humorous tone and the broadcast schedule, the complaint was rejected with reference to Section 24(2)(e)(advertising codes) of the Broadcasting Act 2001.

**5.107** *Complaint made by: Mr. Andrew McGrath  
Ref. No. 119/06*

**Station:** RTÉ TV1  
**Programme:** Today with Pat Kenny  
**Date:** 10 May 2006

### Complaint Summary:

Mr. McGrath's complaint, submitted under Section 24 (2)(e)(advertising codes), refers to an interview with Mr. John Geddes a former member of the SAS and author of a book 'Highway to Hell'. Mr. McGrath submits that this gave the individual's book promotion on prime time radio.

### Station's Response:

RTÉ submits that it is widespread practice for authors to appear on radio and television and promote their books. It is above board. The audience gains by being supplied with information about new books. The publishers gain by receiving publicity. The broadcasters gain by having access to interesting interviewees. RTÉ claim there is nothing in this practice which in any way breaches advertising standards' codes.

### Decision of the Commission:

The Commission has considered the broadcast, the submissions made by the complainant and the broadcaster. The Commission noted that book reviews and interviews based on the publication of a book are regular features in broadcast programming. In assessing this complaint, the Commission had regard to the

Departmental Advertising Codes, 1995. In particular, Sections 8.2 (surreptitious advertising) and Section 25 (presenters and indirect advertising).

In introducing the interview, the Commission noted that the presenter did refer to the fact that the interviewee had recently published a book on his experiences as a Private Military Contractor (PMC). The subsequent discussion explored the experiences of the interviewee in this role. The presenter posed questions to elicit information on the interviewee's life and experience as a PMC.

On hearing the broadcast, the Commission was of the opinion that the broadcaster's aim was to provide the listener with a sense of the life of a PMC. There was no evidence of the broadcaster trying to mislead the public as to the nature of the broadcast item. The presenter made no gratuitous references to the interviewee's book in the course of the interview. The complaint was rejected with reference to Section 24(2)(e)(advertising codes) of the Broadcasting Act 2001.

**5.108** *Complaint made by: Mrs. Valerie Corbett*  
*Ref. No. 143/06*

**Station:** 2FM  
**Advertisement:** Advert - Playstation;  
Grand theft auto  
**Date:** 23 June 2006

### Complaint Summary:

Mrs. Corbett's complaint, submitted under Section 24(2)(e)(advertising codes), relates to an advertisement for 'Playstation – Grand theft auto'. She states that she heard the advertisement at teatime and lunchtime whilst her young family were eating their meal. She was shocked to hear this offensive advertisement where a female is shot in cold blood by her boyfriend. Not only is this advertisement extremely belittling towards women, it is a cheap trick to get the target young male audience. If women were an ethnic minority this advertisement would be banned so why is it ok for a female to be portrayed so badly? This advertisement should be aired after the watershed.

### Station's Response:

The broadcaster states that this complaint refers to an advertisement for a video game, grand theft auto. The product is a 'gangster-type' theme game and the advertisements use the genre of gangster novels and

movies to promote the product. The games carry a rating of 18s, which means they should not be sold to people under the age of 18. These types of games frequently include a good deal of stylized violence. In considering the suitability for broadcast of these advertisements RTÉ's Copy Clearance Committee considered both the product and the contents of the particular advertisements. Mrs. Corbett asks that watershed restrictions should apply. However, the concept of watershed applies only to television. In radio the likely composition and expectation of the audience determine the transmission time rather than the hour of transmission.

The Copy Clearance Committee decided to impose no restrictions on these advertisements. The view was taken that the stylized gangster language of the advertisements would be understood to refer to fiction and would not give offence. It was felt that the contents were inoffensive and unlikely to offend. It was recognized that the product being promoted was intended for an adult audience only. But this on its own was not sufficient reason to impose restrictions. There are many advertisements for products which only apply to adults (motor cars, the Economist magazine, etc) which are broadcast unrestricted.

### Advertiser's Response:

Rockstar Games submit that the advertisement does not feature a girl being shot dead by her boyfriend. The entire advertisement is made up of clips taken from the game and mixed in with sound effects. There is a gunshot after an exchange between a man and a woman, but there is no suggestion that anybody is shot – there is no cry of pain or sound of a body falling.

They further submit that they take their responsibilities as advertisers very seriously. They exercise the utmost care to adhere to all broadcast and industry standards in all their advertising communications. Sound files of the advertisement were submitted to RTÉ prior to broadcast, and cleared by them for broadcast in Ireland with no time restrictions. They informed the advertiser that they decided that no restriction was required because the advertisements used clearly stylized gangster language which was obviously fictional and was unlikely to offend.

In the UK, the scripts for the advertisements were sent to RACC (UK Radio Advertising Clearance Centre) before the advertisements were recorded, and again when finished to ensure they were fully cleared for broadcast, again they were cleared with no time restrictions.

### Decision of the Commission:

The Commission considered the broadcast, the submissions made by the complainant, the broadcaster and the advertiser. The advertisement in question relates to a playstation game, grand theft auto. The theme of it is gangster based, and in the view of the Commission, somewhat cartoonish in nature. Gun shot effects are used, which are typical of gangster films. The wording of the script is also typical of gangster films. On hearing the item, the Commission was of the opinion that it was not evident that the female was shot as asserted by the complainant. There was no content that one could consider derogatory to women. Also, there was no content that could be considered indecent or offensive. Given the nature and comic-book tone of the advertisement, the Commission was of the opinion that this advertisement was within acceptable standards. The complaint was rejected with reference to Section 24(2)(e)(advertising codes) of the Broadcasting Act, 2001.

**5.109** *Complaint made by: Ms. Patricia Gardiner  
Ref. No. 144/06*

**Station:** RTÉ Radio 1  
**Advertisement:** Advert - Treoir  
**Date:** June 2006

### Complaint Summary:

Mrs. Gardiner's complaint, submitted under Section 24(2)(e)(advertising codes), relates to an advertisement for Treoir. She submits that it portrays two young teenage boys, one complaining about his father and the other, the child of a single mother. She believes this advertisement to be offensive to families headed by single mothers, and more especially to create a demeaning image of children of single mothers where the father is absent. She believes the advertisement offends any common standard of decency as the child with the absent father in the advertisement is portrayed as being somehow 'less' than the child with two parents. The advertisement portrays a negative and shameful image of single-parent families that is likely to cause stress to the children of those families. Young teenagers are being shamefully used in this advertisement to 'get at' absent fathers.

### Station's Response:

The broadcaster states that it regrets Ms. Gardiner has interpreted the advertisement as offensive to children and families headed by a single mother. They are sure that both Treoir and the copywriter did not

intend this interpretation to be taken. They were sure that the listener would understand the purpose of the advertisement was to the public existence of the organisation and not to be judgemental in any way about any aspects of families. The broadcaster would like to apologise to Ms. Gardiner for any distress the broadcast of the advertisement may have caused her. With the greatest respect for Ms. Gardiner and her views, it is RTÉ's view that the interpretation taken by its Copy Clearance Committee was correct and that the decision to broadcast the advertisement was in order and that there was no breach of the advertising codes.

### Advertiser's Response:

Chemistry, the advertising agency, submit that the purpose of the campaign was to increase public awareness of Treoir and also to make parents aware that their children have a right to know who both parents are and where possible to have a relationship with them. This was based on a number of articles in the UN Convention on the Rights of the Child, which was ratified by the Irish Government and indeed the government has an obligation to promote the convention.

In the development of the communication for the treatment of such a sensitive topic we estimated that the most appropriate way we could address this was not by informing parents that their children have a 'right' to know who both their parents are. Instead, we believed that fundamentally every parent wants what is best for their child and knowing who their parents are helps define their very identity. We therefore positioned the advertisement from the viewpoint of the child and a situation they could easily experience. The child is not portrayed as being lesser than his peer. The scenario instead shows how one child may take such a relationship for granted, and on the other hand how this relationship could easily be what another child is missing out on. We recognized that in some cases having a relationship with both parents is not possible due to violence etc., however, we qualified this by including 'where possible' in the advertisement.

The advertisement is targeting parents who do not allow their children to have contact with the other parent and parents who are reluctant to acknowledge the existence of their child, let alone have a relationship with them. To that end the advertisement was effective in encouraging people to contact Treoir to find out how they could go about doing this.



The advertisement was in no way meant to criticise lone parents or target children. It is merely aimed at encouraging parents to make their child aware of their other parent and on the flip side encouraging absent parents to make an effort to be in the lives of their children.

### Decision of the Commission:

The Commission considered the broadcast, the submissions made by the complainant, the broadcaster and the advertiser. The advertisement was a promotion for the services of Treoir. The Commission acknowledges that the topic is sensitive and that it should be handled with due care. On hearing the item, the Commission is of the opinion that the tone and content was such that it could not be considered to be critical or demeaning to single parent families or the children of single parent families. The scripted dialogue between the two young boys seemed typical of the kind of conversation between two young boys. There are no comparisons made between the two boys. The piece seemed natural and matter-of-fact, with no criticisms or analysis being implied or suggested of either boy: -

*Boy 1: I wish my Da would bring me somewhere different.*

*Boy 2: What do you mean?*

*Boy 1: Last Sunday he dragged me to another match.*

*Boy 2: What was it like?*

*Boy 1: Rubbish, it lashed rain. Where do you go with your Da?*

*Boy 2: I don't go anywhere, I've never met him.*

The Commission acknowledges the concerns of the complainant and in particular, the reference that it is good for children to know who their parents are. However, having considered the matter and listened to the broadcast, the Commission is of the opinion that the tenor and message is non-critical. There was no evidence of content that belittled single parent families or children of single parent families. The complaint was rejected with reference to Section 24(2)(e)(advertising codes) of the Broadcasting Act, 2001.

**5.110** *Complaint made by: Mr. Brendan Griffin*  
*Ref. No.198/06*

**Station:** RTÉ 2  
**Advertisement:** Advert - Maltesers  
**Date:** August 2006

### Complaint Summary:

Mr. Griffin's complaint, submitted under Section 24(2)(e)(advertising codes), refers to an advertisement for Maltesers. This advertisement was broadcast at the interval between the end of the Mayo v Dublin All Ireland semi-final and the post match analysis, when both his young children were watching. Mr. Griffin states that whilst they were not really interested in the post match analysis, nevertheless, they still saw the advertisement. He subsequently found both his children mimicking the girl in the advert pulling up her top. The complainant believes the advertisement is not suitable for broadcast at any hour of the day, but particularly should not be aired before 9pm. He states that the GAA promotes their games among young children and therefore it is reasonable to expect that children could be watching the All Ireland football semi-final. He believes the advert degrades both male and female participants. Furthermore it is not in any way a role model for young girls and women and only contributes to their sexual exploitation. Mr. Griffin does not see the relevance of this advert in relation to selling a confectionary product.

### Station's Response:

RTÉ in its response states that it does not accept Mr Griffin's claim that the advert fails the decency requirement. When the young woman lifts her blouse to her male colleague she has her back to camera. The viewer sees nothing. If it is the concept of her behaviour that upsets Mr. Griffin he fails to appreciate that the whole advert is intended to be taken humorously and that it should not be taken seriously. The reaction of the male worker is deliberately over the top as he falls like a clown over the photocopier. Viewers are intended to see the whole story line as a joke, neither to be believed or imitated. The scriptwriters were probably thinking of the flirting and teasing which takes place in many offices on a regular basis. RTÉ does not share Mr. Griffin's description of the advert as contributing to the sexual exploitation of women and young girls; what is depicted is not exploitation, it is flirtation.

RTÉ's Copy Clearance Committee considered this advert for Maltesers and decided to exclude its broadcast from Children's Programmes. It is RTÉ's view that this decision was the right one. The actual advert was broadcast during an All Ireland semi-final game. This is not a children's programme. On the 27 August at 5.40pm when the advert was shown only 5% of the viewing audience were children. On this basis, it is quite clear that the Maltesers advert was scheduled according to the Copy Clearance Committee's instructions.

### Advertiser's Response:

The advertising agency, BBDO, state that this is the only complaint they have received. As with all advertising scripts, the advert was submitted to the BACC and RTÉ Copy Clearance Committee for approval in advance of broadcast. It received full approval on the basis that it would not cause grave or widespread offence. The Maltesers brand uses the tagline "the lighter way to enjoy chocolate". This commercial was conceived to reflect a brand that was light-hearted in nature. The tone of the advertisement is thoroughly jovial and light-hearted. The actions of both protagonists in the commercial are clearly comedic in nature, signalling clearly to the viewer that they are not to be taken seriously or read literally. The setting is a "grown up environment" of the work place so that it would be of little interest to children.

### Decision of the Commission:

The Commission considered the broadcast, the submissions made by the complainant, the broadcaster and the advertiser. The advertisement is for Maltesers during which two female colleagues discuss the 'naughtiness' or otherwise of eating chocolate and in particular, Maltesers. The advertisement is set in an office and from the outset the Commission noted that the tenor of the piece was based on light-hearted office banter. It was also evident from the outset that the tone and content were based on humour. The opening line includes 'oh chocolate, naughty, naughty' and reference is made to the number of calories in a particular sized bag of Maltesers. One of the females subsequently states that 'now I don't feel very naughty at all'. The acting in the advertisement was somewhat over-the-top and evidently tongue-in-cheek. It was evident that it was not to be taken seriously and it could not be considered sexist. There was no evidence of sexual exploitation or degradation as asserted by the complainant. While the humour may not appeal to all tastes, the Commission was of the opinion that it was unlikely to cause widespread offence. The Commission also noted that the advertisement is not broadcast during children's programming. Given the humorous tone and the

broadcast schedule, the complaint was rejected with reference to Section 24(2)(e)(advertising codes).

**5.111** *Complaint made by: Mr. Thomas F. Bourke*  
*Ref. No. 224/06*

**Station:** Mid West  
**Advertisement:** RTÉ  
Advert – Environmental  
**Date:** Protection Agency  
September 2006

**5.112** *Complaint made by: Mr. Thomas F. Bourke*  
*Ref. No. 225/06*

**Advertisement:** Advert – Environmental  
Protection Agency  
**Date:** September 2006

### Complaint Summary:

Mr. Bourke's complaint, submitted under Section 24(2)(e)(advertising codes), relates to a nationwide advertisement campaign on behalf of the Environmental Protection Agency broadcast on Mid West Radio and RTÉ radio. The advertisement invites concerned citizens to telephone an 1850 number in confidence to report people who illegally dump their waste. Mr. Bourke claims that as a public spirited person, he supplied certain information using this number, concerning illegal dumping. However, he claims that Mayo County Council subsequently not only supplied his name and address to the culprit, but also offered this person a copy of his letters. Mr. Bourke believes the advertisement in question leads one to believe that "any information sent to any person or state body concerning illegal dumping, will be treated in confidence". Confidentiality, therefore, has been breached in Mr. Bourke's case. He questions the validity of an advertisement that purports to keep confidential, any information supplied.

### Station's Response:

RTÉ in their reply state that this advertisement on behalf of the Environmental Protection Agency (EPA) was broadcast in good faith believing it to be truthful as laid down in the advertising codes. The advertisement claims that people who make a complaint about illegal dumping will have their complaints treated confidentially. However, Mr. Bourke's experience is that he was identified as a complainant following his report of illegal dumping. RTÉ is unable, however, to provide an assurance of confidentiality and advises the BCC to contact the EPA.

No reply received from Mid West Radio.

### EPA's Response:

The EPA states that following an investigation into Mr. Bourke's complaint, it is clear that their agency did not pass on his details to Mayo County Council. The phone records show the time and date of Mr. Bourke's call and his request for confidentiality. It also shows that Mr. Bourke had already contacted Mayo County Council before telephoning the EPA. The Agency believes, therefore, that it is quite possible that his details may have been released by Mayo County Council. As the EPA did not pass on Mr. Bourke's details, the agency was not in breach of the confidentiality stated in the advertisement.

### Decision of the Commission:

The Commission considered the broadcast, the submissions made by the complainant and the advertiser. The script of the advertisement in question is as follows:-

'This is a public notice from the Environmental Protection Agency.

The Environmental Protection Agency, local authorities and the Gardaí are working together to stamp out illegal dumping in Ireland.

We are seeking your help in identifying large-scale illegal dumping in your area.

If you have information, call us in confidence, on: [number]; that's [number]

The Environmental Protection Agency, working with you to protect Ireland's environment'.

The Commission noted that the advertisement promotes the confidential phone line for the EPA. The Commission also noted the contention that it was quite possibly Mayo County Council who released the details of the complainant and not the EPA. The Commission would acknowledge that the advertisement does state that the EPA, 'local authorities and the Gardaí are working together...'. However, the advertisement gives the listener a specific number to call. On hearing the advertisement, the Commission was of the opinion that the number given in the course of the advertisement was for a confidential phone line. The advertisement was a promotion for EPA. The complainant submits that it was the local County Council that released his details and not the EPA. Therefore, as the EPA did not release the complainant's details, the validity of the confidentiality as promoted in the advertisement cannot

be questioned on this occasion. On this basis, the Commission determined that the advertisement was not misleading. The complaints were rejected with reference to Section 24(2)(e)(advertising codes).

**5.113** *Complaint made by: Mrs. Ursula Corcoran  
Ref. No. 226/06*

**Station:** Cork's 96FM  
**Advertisement:** Advert – Senokot  
**Date:** August 2006

### Complaint Summary:

Mrs. Corcoran's complaint, submitted under Section 24(2)(e)(advertising codes), relates to an advertisement for Senokot tablets. She submits that this is a medication for constipation, which may affect males and females. She states that the advertisement in question is directed towards female listeners, using the analogy of weight of handbag being compared to weight of waste food in the body. As many women suffer from eating disorders actually take laxatives in an effort to lose weight, she feels this advertisement should be pulled. Why use the analogy of a handbag?

### Station's Response:

Cork's 96FM submit that on two occasions during this advertisement, it specifically states that the Senokot tablets are designed to address the problem of constipation. At no stage during the advertisement is there a direct or indirect reference to the product being in anyway related to weight loss as insinuated by the complainant.

### Advertiser's Response:

Reckitt Benckiser Healthcare submit that they were most concerned to hear that the Senokot radio advert offended the consumer, as they place great emphasis on ensuring that their communication in advertisements is appropriate given the personal nature of constipation, and that the advertisement is in accordance with advertising regulations and licensed particulars of the product.

The analogy of the handbag attempts to explain the discomfort associated with constipation, and how this is relieved by the product. It is clearly stated in the advertisement that the feeling is associated with constipation. At no point does the advertisement suggest that the product will reduce weight. They are careful not to link the product with weight loss when

advertising the product to avoid misconceptions. They do not consider that the advertisement conveys the message claimed by the complainant. They believe that the advertisement complies with both the advertising codes and the licensed details for the product.

### Decision of the Commission:

The Commission considered the broadcast, the submissions made by the complainant and the broadcaster. The advertisement in question promotes a product for the relief of constipation. The script does include a reference to a handbag. The relevant text is as follows: -

‘Ever thought what happens when you’ve got constipation? - imagine your digestive system is a handbag full to the brim with waste food. Now pick it up and carry it around for the next few days. It’s heavy and uncomfortable. Yet it’s exactly how you may feel if you’ve got constipation.....and help restore the flow of your digestive system simply and predictably. Soon you’ll be feeling much better. Help restore your inner health.....’

In the opinion of the Commission the advertiser is entitled to decide on the target audience for its advertisement. In this case, the advertisement is aimed at women. This was a legitimate decision to make. In assessing the complaint, the Commission had regard to the content only. On hearing the advertisement the Commission was of the opinion that the message of the item was that if you take this tablet it may ease the discomfort caused by constipation. The Commission would assume that the use of the analogy of the handbag was based on the target audience for the particular advertisement. It was used to convey the discomfort caused by constipation to females.

The Commission is of the opinion that the only message promoted in the advertisement was for a tablet that relieves constipation. The Commission could not find any evidence of the issues of complaint as submitted by the complainant. The complaint was rejected with reference to Section 24(2)(e)(advertising codes).

**5.114** *Complaint made by: Mr. Aodhán O Riordán  
Ref. No. 232/06*

**Station:** Newstalk  
**Advertisement:** Advert –Top Security  
**Date:** 25 September 2006

### Complaint Summary:

Mr. O Riordán’s complaint, submitted under Section 24(2)(e)(advertising codes), relates to the content of an advertisement for Top Security. He objects to the exclusive use of a Dublin working class accent to depict the voice of a criminal while a different accent is used for the receptionist. The advertisement contains a mock phone call from a disgruntled burglar in Mountjoy Prison who can only be distinguished by his accent. Mr. O Riordán believes that this type of negative advertising stigmatises those who have a Dublin accent as being sinister or untrustworthy. Essentially the advertisement furthers the stereotype that all criminals are from working class areas of Dublin and therefore a working class Dublin accent is identifiable with a criminal past.

### Station’s Response:

Newstalk submit that the advertisement did not intend to offend or stigmatise anyone with a particular Dublin accent. It uses humour to communicate a message about the effectiveness of Top Security’s monitoring service. The use of a Dublin accent in this commercial was considered appropriate as the majority of Top Security’s customers are from Dublin as are the majority of prisoners in Mountjoy prison. Newstalk does not believe the advertisement in anyway depicts everyone with a Dublin accent to be sinister or untrustworthy.

### Advertiser’s Response:

Chemistry submits that the advertisement is not intended to offend or stigmatise people with a particular accent. Humour is used to communicate a message about the effectiveness of Top Security’s monitoring service. The use of a Dublin accent in this commercial was considered very appropriate as the majority of Top Security’s customers are from the Dublin area as are the majority of prisoners in the prison featured, Mountjoy. Chemistry further state that it is unreasonable to draw the conclusion from this that everyone with a Dublin accent is sinister or untrustworthy.

### Decision of the Commission:

The Commission considered the broadcast, the submissions made by the complainant, the broadcaster and the advertiser. The advertisement promotes the services of Top Security. The advertisement starts with a phone call being received at the offices of Top Security from an inmate in Mountjoy prison. The Commission would acknowledge that the inmate has a particular Dublin accent and that the receptionist has a particular Dublin accent. The Commission noted that the tone of

the advertisement is humorous and that the aim is to promote the company's monitored alarm services. The Commission also noted that the advertiser's main target audience for the service was based in Dublin. Therefore, the accents used were particular to Dublin.

On hearing the broadcast, the Members were of the opinion that the light-hearted nature of the advertisement was evident. The aim was to get across the message about the company's rapid response rate in relation to its monitored alarm system. It did so in a humorous and inoffensive manner. The Commission did not agree that on hearing the advertisement, a listener would conclude that those with a Dublin accent were 'sinister' or that 'a working class Dublin accent is identifiable with a criminal past'. The Commission could not find any evidence of the issues of complaint as submitted by the complainant. The complaint was rejected with reference to Section 24(2)(e)(advertising codes).

**5.115** *Complaint made by: Mr. Anthony Hayes  
Ref. No. 248/06*

**Station:** Cork's 96&103FM  
**Promotion:** Fugitive Promotion  
**Date:** October 2006

### Complaint Summary:

Mr. Hayes's complaint, under Section 24(2)(e)(advertising codes), relates to a promotion in which the public are invited to find the station's "Fugitive". Mr. Hayes claims he caught the "Fugitive" in a car at 09:20a.m. on 27 October which was within the bounty period announced on air that day i.e ALL day. However, he was informed that he did not win the prize because the "Fugitive" was in his own private car at the time. He was also told he should read the terms and conditions relating to the promotion on the station's website. Mr. Hayes claims it was never announced on the radio that you could not catch the "Fugitive" if he was in his own private transport during the bounty period. He further claims that the bounty period was announced as being all day on October 27 – being the bank holiday weekend. According to the complainant, the promotion states that the "Fugitive" is out on the streets but queries how he can be 'out on the streets' if he is in his own car during the bounty period. The complainant states that he was misled by this promotion. He wasted time needlessly and incurred costs as a result.

### Station's Response:

Cork's 96FM submits that Mr. Hayes's account of the events contain several inaccuracies. Prior to this incident, Mr. Hayes's son approached the 'Fugitive' and had not been given the prize as he was under 18 years old; a term clearly stated in the rules. At that stage, Mr. Hayes went into the station to discuss the matter and was informed on a number of occasions that the rules applied and in fact was offered a copy of the rules which he accepted. Mr. Hayes cannot, therefore, claim that he was not aware of the rules that applied. If there was a problem with reading the terms and conditions the onus was on him to inform the station and the problem could have been addressed. A number of weeks later, Mr. Hayes found the 'Fugitive' in his private car, which again is a matter that is comprehensively dealt with in the rules. There should be no issue in this regard as, not only was Mr. Hayes made aware of rules like all listeners to the station, but he was offered them "face to face". Cork's 96&103FM believe they have dealt with this promotion very professionally, making it quite clear that rules applied and making these widely available.

### Decision of the Commission:

The Commission has considered the broadcasts, the submissions made by the complainant and the broadcaster. The broadcast item in question is a station competition run on Cork's 96&103FM. Listeners are given clues as to the location of the 'fugitive' and if they successfully locate him, they can win a cash prize. The Commission noted that the complainant states he located the 'fugitive' on 27 October in his [the fugitive's] car during the bounty period. However, he was subsequently told that he did not win the prize as the 'fugitive' was in his car. Therefore he believes that the station promotion was misleading; the bounty period was applicable all day, and the 'fugitive' would be out on the streets. The complainant asks how can the 'fugitive' be out on the streets if he is in his own car? He asserts that he was misled and wasted time and incurred costs as a result.

The Commission noted that the station submits that the 'fugitive' cannot be caught travelling in private transport and this is stated in the terms and conditions of the competition, which are on the station's website. The actual term states: -

No person who approaches and/or questions the 96&103FM fugitive will be answered truthfully or will win a prize if any of the following apply:

1. they have done so outside the Bounty period nominated by Cork's 96& 103FM
2. the fugitive is travelling in private transport
3. the fugitive is in a private residence or place of accommodation.

The Commission also noted that the complainant had a copy of these terms and conditions prior to the competition aired on 27 October 2006. He therefore had the opportunity to inform himself of the relevant rules. In the opinion of the Commission, given that the complainant had been supplied with the regulations, the complainant could not have been misled by the promotion. The Commission noted that the station states that the stipulation concerning private transport endeavours to preserve the security of the station's staff and the safety of the members of the public. The competition also involves different parts of the city and county and therefore, one would expect that in order to move from place to place, it would be necessary for the fugitive to use transport.

In view of the fact that the complainant had been given the terms and conditions of the competition prior to the 27 October, the Commission was of the opinion that he could not have been misled by the promotion. The complaint was rejected with reference to Section 24(2)(e)(advertising codes).

**5.116** *Complaint made by: BIM*  
*Ref. No. 252/06*

**Station:** RTÉ 2  
**Advertisement:** Advert - Birds Eye Frozen Salmon  
**Date:** 2 November 2006

### Complaint Summary:

Mr. Donal Maguire is the Divisional Manager of Bord lascaigh Mhara and his complaint is made on behalf of the company. The complaint refers to what he considers a grossly misleading advertisement for the average Irish fish consumer. The celebrity presenter in the advert purports to be talking about Wild Pacific Salmon and what makes the flesh of that kind of salmon pink; their feeding on shrimps and small crustacean. The presenter goes on to compare this fact with the process by which farmed salmon flesh is pigmented and in the process clearly implies that his product is superior. However, what is not revealed is that the fish he handles are not Pacific Salmon but Atlantic salmon. The jar of shrimps

he holds up to camera are animals of the *Pandalus Borealis* species, which do not occur in the Pacific Ocean and therefore could not possibly form part of the diet of a Wild Pacific Salmon. Despite this, the presenter clearly states 'without this, it would be grey' – referring to the wild Pacific salmon which Birds Eye say they use exclusively in their product. Mr. Maguire believes this advertisement is very misleading and amounts to little more than a form of trade war by the Alaskan salmon producers denigrating the products of their competitors. From a consumer's viewpoint, this could cause confusion and may deter them from buying fresh salmon, an important source of Omega 3 and 6 oils shown to be good for heart health.

### Station's Response:

RTÉ state that their Copy Clearance Committee accepted this advert in good faith. RTÉ had no reason to doubt the veracity of the claims made and submit a copy of a response from Birds Eye and from the advertisement agency, BBH Ltd., London.

### Company response:

The General Marketing Manager of Birds Eye, Caroline Drummond submits a response from the advertising agency and also wishes to emphasise the following key points:

1. Birds Eye strongly refutes all the complaints from BIM. The complainants have strained to interpret the commercial in order to read into it implications or references which simply do not exist.
2. The advertisement contains a single positive fact that applies to Birds Eye frozen salmon i.e. wild salmon is naturally pink; it does not contain synthetic colourants. It makes no quality or health comparison to any type of farmed salmon.
3. The location of the fishing boat and provenance of fish and shrimps featured in the advertisement is not important as the 'story' is not about the provenance of Birds Eye salmon.

Ms. Drummond states that in order to put the fact about Birds Eye into context, they needed to make reference to the way in which non-wild salmon sometimes gets its colour. This was required so that consumers were provided with balanced information that would enable them to make an informed choice. The indirect effect of the advertising is to identify to consumers that Birds Eye salmon products are all made with wild Pacific salmon and thereby, begin to correct any misapprehension that

frozen foods have a low level of nutritional value and poor standard of ingredients. Ms. Drummond states that the advert establishes that wild salmon obtains its pink colouring from its diet and asks the question ‘*so how come salmon that isn’t wild is still so pink?*’ There is no health claim but simply a reference to a single attribute on the factual basis which is verifiable through a study of research in the area. There is no reference either to any named competitor. The advert does not extol the virtues of wild Pacific salmon because the origin is not a relevant part of the theme.

Birds Eye reject the assertion by the complainant that the advert is “grossly misleading” because the fish shown is an Atlantic Salmon but advertises a product made from wild Pacific salmon. The advertisement simply refers to fishing for salmon with the journalist fronting the advert on a fishing boat in a location where you could reasonably expect that he could be fishing for salmon. The location is not identified and is irrelevant to what follows. Also irrelevant is the fact that the shrimps shown are of the *Pandalus Borealis* species, which do not occur in the Pacific Ocean. They are representative of the generic type of food consumed by salmon in the wild and from which wild salmon derive their natural pigmentation. The only time Pacific salmon is referenced is at the end in a voiceover to a Birds Eye product shot in order to establish the provenance of the Birds Eye product. This shot is separated from the main part of the advert by cutting to a shot of a freezer containing Birds Eye products. There can be no implication derived from it that the fishing scenes were meant to represent the Pacific. The only comparison implied in the advertisement is that of how the source of colour in Birds Eye salmon products may differ from that found in non-wild products. Ms. Drummond believes this advert is responsible, truthful and gives an honest implied comparison that can be substantiated by reference to scientific papers which does not give the Birds Eye brand an unfair advantage.

#### **Advertiser’s response:**

Bartle Bogile Hegarty Ltd. (BBH) the advertiser, states that this advertisement is intended to convey the benefits of freezing food. Birds Eye’s particular processes (no artificial preservatives, colours or flavouring) seeks to redress some of the negative misconceptions about frozen food that, though erroneous, are common in consumers’ minds – for instance that all frozen ingredients are low quality and that frozen products have little or no nutritional content. The advertising highlights Bird Eye’s own products and processes, drawing reference to other processes to set Birds Eye’s

in context. Throughout the advertisement, BBH, believe they have been careful to deal only with facts and to present those facts in a clear, non-partisan fashion. The manner of presentation leaves the public free to draw their own conclusions. The use of a real life food journalist in the advert, rather than an invented Birds Eye spokesperson, is intended to help present the food facts in as fair a way as possible. The advert is not about where Birds Eye gets its salmon from – it is a discussion of how wild and farmed salmon gain their colouration. Birds Eye then point out that they use only wild salmon. Birds Eye has a policy of buying only wild salmon from a sustainable source. This means that the salmon they buy happens to come from the Pacific. The Pacific reference is simply a factual reference. Birds Eye use wild Pacific salmon from sustainable sources and the product packaging explicitly names the product as Pacific salmon.

The advertisement makes no reference to specific competitive products. Ingredients and processes are represented in a factual, informative manner without implying a health connotation.

The advertisements are focused solely on fish colouration and diet. No reference is made to Scotland and no location is implied by the filming or creative treatment as this is not part of the colouration story. The only reference to a location is quite incidental to the story, coming in the voiceover sign-off at the end as in ‘*We only use wild, Pacific salmon. Birds Eye. Five-star food. Frozen*’. The adverts are not an attempt to imply one fish is inferior or superior to another. Birds Eye informs consumers of its own processes. The aim is to explain that Birds Eye uses salmon that contains no artificial colourants and to demonstrate this, BBH state that they present the alternative for comparison as how salmon obtain their colour is not widely known. No health claim is made about wild or farmed salmon.

#### **Decision of the Commission:**

The Commission has considered the broadcast, the submissions made by the complainant, the broadcaster and the advertiser. The advertisement is for Birds Eye frozen salmon. The Commission noted that the complainant states that there are inaccuracies in the advertisement and these relate to the use of Atlantic Salmon and the jar of shrimps used which he submits are animals of the *Pandalus Borealis* species, which do not occur in the Pacific Ocean and therefore, could not possibly form part of the diet of a Wild Pacific Salmon. The Commission would acknowledge that the advertisement is for salmon caught in the Pacific

Ocean and not the Atlantic. What the Commission had to consider here was would the use of such visuals be misleading, or misrepresent the product, to the viewer. The Members were of the opinion that the shoot for the advertisement was located in the Atlantic and as such, it was this location that determined the type of salmon and shrimp used in the advertisement. Did the use of Atlantic fish misrepresent the product being advertised? The product being advertised was salmon, which do feed on shrimp. The opening lines of the advertisement are: - 'We're out here fishing for wild salmon. One of the things I love is its colour, but how does it get so naturally pink. It's all down to its diet of shrimp and small crustaceans.....'. The visuals of the salmon and shrimp were used in tandem with the text. In the opinion of the Commission the visuals were used to emphasize the text; wild salmon feed on shrimp irrespective of their marine location. The Members were also of the opinion that the majority of viewers could not determine that the visuals used were based in, and from, the Atlantic as opposed to the Pacific. Therefore, the Commission was of the opinion that the viewer was not being misled nor was the product being misrepresented.

The complainant also asserts that the advertisement aims to give the impression that the salmon used as raw materials in Birds Eye products does not have additives, whereas 'other' salmon raw material somehow has something added to it. This he believes to be misleading. The Commission noted that no specific competitor is mentioned at any stage during the advertisement. The Commission would acknowledge that the text includes: - 'but how come that salmon that isn't wild is still so pink?.....Well there's a synthetic colourant which is sometimes added to their feed'. The Commission noted that the complainant does not take issue with the fact that the advertisement states that synthetic colourants are sometimes used. On hearing this advertisement, the Commission was of the opinion that the product being promoted was Birds Eye's colourant-free frozen pacific salmon. The Commission could not discern any denigration of the products of competitors in this advertisement. Also, the claim that the advertisement sought to create consumer unease was not evident. There are no health claims, either negative or positive, made in the advertisement.

The Commission is of the opinion that this advertisement promoted the product and the process of making the product in fair and truthful manner. The complaint was rejected with regard to Section 24(2)(e)(advertising codes).



RESOLVED COMPLAINTS/GEARÁIN AR RÉITÍODH IAD:

Complaints Received in 2006/Gearáin a fuarthas i 2006

Ref No.	Category – impartiality	Broadcast	Station	Date of Broadcast
Uimh Tag	Catagóir – claontacht	Clár	Stáisiún	Dáta ar Craoladh
25/06	unbalanced presentation	Joy in the Hood	RTÉ TV1	18 Jan 06
27/06	unbalanced discussion	Morning Ireland	RTÉ Radio 1	20 Jan 06
28/06	unbalanced reporting	RTÉ Radio News	RTÉ Radio 1	24 Jan 06
29/06	unbalanced reporting	RTÉ TV News: Six One	RTÉ TV1	24 Jan 06
32/06	inaccurate reporting	Morning Ireland	RTÉ Radio 1	30 Jan 06
34/06	unbalanced discussion	RTÉ TV News: Six One	RTÉ TV1	23 Feb 06
36/06	unbalanced discussion	Today with Pat Kenny	RTÉ Radio 1	24 Feb 06
37/06	unbalanced discussion	Today with Pat Kenny	RTÉ Radio 1	24 Feb 06
38/06	unbalanced discussion	Today with Pat Kenny	RTÉ Radio 1	24 Feb 06
39/06	inaccurate facts	The Opinion Line	Cork's 96Fm & 103 Fm	02 Feb 06
41/06	unbalanced reporting	RTÉ TV News: Six One	RTÉ TV1	23 Feb 06
62/06	unfair presentation	RTÉ News Bulletins	RTÉ2	01 Mar 06
68/06	right of reply issue	Capital D	RTÉ TV1	23 Mar 06
85/06	unfair presentation	Flesh and Blood	RTÉ TV1	06 Apr 06
91/06	unbalanced discussion/unfair comments	Prime Time	RTÉ TV1	13 Apr 06
96/06	unfair comments	Tonight with Vincent Browne	RTÉ Radio 1	19 Apr 06
106/06	unfair comments	Prime Time	RTÉ TV1	11 Apr 06
107/06	unfair comments/unbalanced discussion	The Late Late Show	RTÉ TV1	05 May 06
125/06	political bias	RTÉ Radio News: News at One	RTÉ Radio 1	31 May 06
130/06	unbalanced - unfair presentation	Black Sheep	RTÉ TV1	21 May 06
137/06	unfair presentation	Prime Time	RTÉ TV1	12 Jun 06
139/06	unfair comments	Gerry Ryan Show	2 FM	07 Jun 06
142/06	unfair comments	Today with Pat Kenny	RTÉ Radio 1	01 Jun 06
147/06	unbalanced reporting	RTÉ Radio News Bulletin	RTÉ Radio 1	04 Jul 06
154/06	unfair comments	Park Live	RTÉ2	12 Jul 06
157/06	unbalanced discussion	Life with Orla Barry	Newstalk	18 Jul 06
158/06	unbalanced discussion	Life with Orla Barry	Newstalk	19 Jul 06
159/06	unbalanced discussion	Life with Orla Barry	Newstalk	20 Jul 06
162/06	unbalanced discussion	Life with Orla Barry	Newstalk	18 Jul 06
164/06	unbalanced discussion	Life with Orla Barry	Newstalk	19 Jul 06
165/06	unbalanced discussion	Life with Orla Barry	Newstalk	20 Jul 06
167/06	unfair comments	What it Says in the Papers	RTÉ Radio 1	30 Jul 06
189/06	unfair comments/unbalanced discussion	Five Seven Live	RTÉ Radio 1	15 Aug 06
191/06	unbalanced reporting	Media Matters	Newstalk	01 Aug 06
204/06	unbalanced discussion	The Late Late Show	RTÉ TV1	08 Sep 06
205/06	unbalanced discussion	The Late Late Show	RTÉ TV1	08 Sep 06

206/06	unbalanced discussion	The Late Late Show	RTÉ TV1	08 Sep 06
207/06	unbalanced discussion	The Late Late Show	RTÉ TV1	08 Sep 06
208/06	unbalanced discussion	The Late Late Show	RTÉ TV1	08 Sep 06
209/06	unbalanced discussion	The Late Late Show	RTÉ TV1	08 Sep 06
213/06	unbalanced presentation	Prime Time	RTÉ TV1	13 Sep 06
214/06	unbalanced discussion	The Late Late Show	RTÉ TV1	08 Sep 06
217/06	unbalanced discussion	The Late Late Show	RTÉ TV1	08 Sep 06
218/06	unbalanced discussion	The Late Late Show	RTÉ TV1	08 Sep 06
219/06	unbalanced discussion	The Late Late Show	RTÉ TV1	08 Sep 06
222/06	unbalanced discussion	Rush to War	RTÉ 2	17 Sep 06
227/06	unbalanced discussion	The Late Late Show	RTÉ TV1	08 Sep 06
229/06	unbalanced discussion	The Late Late Show	RTÉ TV1	08 Sep 06
230/06	unfair use of name	Today with Pat Kenny	RTÉ Radio 1	12 Sep 06
231/06	unfair presentation	The Den	RTÉ 2	02 Sep 06
234/06	unbalanced discussion	Prime Time	RTÉ TV1	12 Sep 06
244/06	unfair Comments	Liveline	RTÉ Radio 1	13 Oct 06
245/06	unbalanced discussion	Today with Pat Kenny	RTÉ Radio 1	23 Oct 06
247/06	unbalanced discussion	Seoige and O'Shea	RTÉ TV1	16 Oct 06
250/06	unfair comments	UEFA Champions League	RTÉ 2	31 Oct 06
253/06	unbalanced discussion	Marian Finucane Show	RTÉ Radio 1	07 Oct 06
273/06	unfair reporting	Morning Ireland	RTÉ Radio 1	17 Nov 06

Ref No.	Category – taste & decency	Broadcast	Station	Date of Broadcast
Uimh Tag	Catagóir – oiriúnacht agus cuibheas	Clár	Stáisiún	Dáta ar Craoladh
1/06	insensitive storyline	Fair City	RTÉ TV1	20 Dec 05
5/06	racist content	Fair City	RTÉ TV1	23 Dec 05
8/06	violent content	The Bill	RTÉ TV1	09 Jan 06
9/06	sexual content	Jack and Ali Show	Spin 103.8	06 Jan 06
12/06	inappropriate drug reference	RTÉ Prom- Trailer for The Core	RTÉ 2	17 Jan 06
22/06	bad language	The Dubs – the story of the season	RTÉ TV1	16 Jan 06
35/06	inappropriate use of the Lord's name	Run	RTÉ Radio 1	14 Feb 06
51/06	religiously offensive comments	The Ryan Tubridy Show	RTÉ TV1	11 Mar 06
57/06	sexual content	Film – Eyes Wide Shut	TG4	21 Mar 06
61/06	violent content	Channel 6 Promo – showreel prior to launch	Channel 6	28 Mar 06
67/06	violent content	Channel 6 Promo – showreel prior to launch	Channel 6	28 Mar 06
69/06	sexual content	Film – Eyes Wide Shut	TG4	21 Mar 06
73/06	violent content	Film - Kalifornia	Channel 6	31 Mar 06
75/06	inappropriate nudity	Film – Mulholland Drive	TV3	25 Mar 06
77/06	violent/sexual content/ bad language	Film – Thelma and Louise	Channel 6	05 Apr 06
79/06	inappropriate humour	Q102 Breakfast	Q102FM	22 Mar 06

92/06	bad language	Ireland AM	TV3	14 Apr 06
95/06	insensitive/misleading reporting	Today with Pat Kenny	RTÉ Radio 1	21 Apr 06
98/06	sexual content	Film – Auto Focus	RTÉ 2	21 Apr 06
105/06	offensive language	Ireland AM	TV3	21 Apr 03
112/06	inappropriate sexual content	The Simpsons	RTÉ 2	15 May 06
116/06	insensitive/graphic reporting	Spin 103.8 News	Spin 103.8	21 May 06
120/06	insensitive comments	Everybody Hates Chris	TV3	22 May 06
121/06	sexually offensive content	Podge and Rodge	RTÉ2	20 Mar 06
145/06	racist comments	Dermot & Dave's Second Chance Saturday	98FM	01 Jul 06
146/06	inappropriate content	The Fabulous Life of: Celebrity Couples	TG4	21 Jun 06
148/06	offensive/vulgar content	Backstage with Dusty Rhodes	Q102 FM	09 Jul 06
168/06	religiously offensive content	The Ray D'arcy Show	Today FM	08 Aug 06
171/06	insensitive reporting	Adrian Kennedy Phone Show	FM 104	03 Aug 06
190/06	offensive language	The Ray D'Arcy Show	Today FM	16 Aug 06
195/06	bad language	My Super Sweet Sixteen	TG4	28 Jul 06
200/06	sexual content	Beat Talk @ Breakfast	Beat FM	25 Aug 06
215/06	offensive content	The Ray D'Arcy Show	Today FM	15 Sep 06
243/06	insensitive/offensive content	The Red Rooster	Red FM	20 Oct 06
254/06	offensive comments	The Ray D'Arcy Show	Today FM	08 Nov 06
261/06	sexual content	Lasair	TG4	12 Nov 06
272/06	song lyrics- bad language	Heavy Traffic	Phantom 105.2	17 Nov 06

Ref No.	Category – slander	Broadcast	Station	Date of Broadcast
Uimh Tag	Catagóir – clúmhillleadh	Clár	Stáisiún	Dáta ar Craoladh
228/06	racist remarks	True Lives- The Grove	RTÉ TV1	19 Sep 06

Ref No.	Category – law & order	Broadcast	Station	Date of Broadcast
Uimh Tag	Catagóir – ord agus dlí	Clár	Stáisiún	Dáta ar Craoladh
58/06	incitement to hatred	Questions and Answers	RTÉ TV1	20 Mar 06
76/06	inappropriate remarks concerning security of the state issue	RTÉ Radio News: News at One	RTÉ Radio 1	28 Mar 06
140/06	remarks undermining law/order	Gerry Ryan Show	2FM	07 Jun 06
174/06	offensive language/promoting racism	The Dublin Horse Show	RTÉ TV1	11 Aug 06
270/06	incitement to crime/hatred	Adrian Kennedy Phone Show	FM 104	15 Nov 06

Ref No.	Category – advertising codes	Advertisement/ Sponsorship/Promotion	Station	Date of Broadcast
Uimh Tag	Catagóir – cóid fógraíochta	Fógraíocht/Urraíocht/Cur chun cinn	Stáisiún	Dáta ar Craoladh
10/06	misleading	Advert – Iarnród Éireann	TV3	14 Jan 06

19/06	inappropriate sexual content	Advert - Sun Newspaper	TG4	15 Jan 06
26/06	misinformation	RTÉ Competition – premium numbers on You’re a Star	RTÉ TV1	05 Feb 06
44/06	misleading	11850 – Text a free entry to the Lotto	RTÉ TV1	08 Mar 06
45/06	misleading	11850 - Text a free entry to the Lotto	TV3	03 Mar 06
36/06	misleading	11850 - Text a free entry to the Lotto	FM 104	27 Feb 06
47/06	offensive content and implication of advert	Advert (HPU) – Don’t let alcohol abuse you	RTÉ2	08 Mar 06
48/06	offensive content and implication of advert	Advert (HPU) – Don’t let alcohol abuse you	RTÉ TV1	08 Mar 06
50/06	culturally offensive	98Fm Competition – Song Suey	98FM	15 Mar 06
56/06	violent content	Advert- Play Station - Godfather	RTÉ TV1	26 Mar 06
74/06	inappropriate/disturbing content given time of broadcast	Advert - Lucozade	RTÉ 2	06 Apr 06
83/06	misleading sponsorship sting	Sponsorship – Weather reports, Eircom’s Broadband	TV3	07 Apr 06
84/06	ageist	Advert – Anti-racism	RTÉ Radio 1	29 Mar 06
93/06	inappropriate message	Advert – Twix	RTÉ TV1	11 Apr 06
100/06	inappropriate content	Advert - Sprite Zero	TV3	27 Apr 06
102/06	insensitive content	Advert – Volkswagen	RTÉ TV1	03 May 06
113/06	inappropriate sexual innuendo	Advert - Moro	RTÉ TV1	15 May 06
134/06	insensitive content given time of broadcast	Advert - Treoir	FM 104	16 Jun 06
138/06	misleading	Advert - Harvey Norman	TV3	02 Jun 06
149/06	prohibited advertising	Advert - Celtic Tarot Line	RTÉ TV1	09 Jul 06
151/06	insensitive/inappropriate premise	Advert – Chorus Digital	2FM	10 Jun 06
160/06	ringtones distracting while driving	Advert - Meteor Mobile Phones	RTÉ Radio 1	29 Jul 06
161/06	ringtones distracting while driving	Advert - Meteor Mobile Phones	Today FM	29 Jul 06
163/06	ringtones distracting while driving	Advert - Meteor Mobile Phones	Newstalk	29 Jul 06
169/06	misleading & insensitive content	Advert - National Safety Authority	RTÉ TV1	26 Jul 06
170/06	provokes fear/worry	Advert – Éircom Phonewatch	Today FM	08 Aug 06
175/06	prohibited advertising	Advert – 7th Sense Psychic Line	TV3	06 Aug 06
176/06	prohibited advertising	Advert – Celtic Tarot Line	TV3	06 Aug 06
177/06	prohibited advertising	Advert - Psychic Circle	TV3	06 Aug 06
178/06	prohibited advertising	Advert – Judy Starr et al	TV3	06 Aug 06
179/06	prohibited advertising	Advert - Ancient Arcana	TV3	06 Aug 06
180/06	prohibited advertising	Advert – Tarot Text	TV3	06 Aug 06
181/06	prohibited advertising	Personal Psychics	TV3	06 Aug 06
182/06	prohibited advertising	Sarah’s Predictions	TV3	06 Aug 06

184/06	inappropriate given time of broadcast	Advert – Puppetry of the Penis	Today FM	15 Aug 06
199/06	inappropriate sexual innuendo	Advert – Hunky Dory Potato Crisps	Cork's 96FM & 103FM	02 Sep 06
202/06	insensitive to religious/catholic teaching	Advert – Positive Options	RTÉ Radio 1	04 Sep 06
216/06	inappropriate message	Advert – Life Pregnancy Care Service	Spin 103.8	10 Sep 06
238/06	promoting sponsor in course of the programme	Ireland AM	TV3	09 Oct 06
241/06	inappropriate content given time of broadcast	Advert – Saw 3	TV3	11 Oct 06
242/06	inappropriate content given time of broadcast	Advert – The Grudge 2	TV3	11 Oct 06
257/06	political Advertising	Advert - Barnardo's Irish Constitution	Today FM	08 Nov 06
265/06	religiously offensive	Advert – Auto Trader	South East Radio	08 Nov 06
271/06	child's voice – unacceptable selling technique	Advert – Kia Cars	RTÉ Radio 1	13 Nov 06

Ref No.	Category – Children's advertising code	Broadcast	Station	Date of Broadcast
Uimh Tag	Catagóir – Cód Fógraíochta do Pháistí	Clár	Stáisiún	Dáta ar Craoladh
153/06	insensitive	Advert – Treoir	2FM	17 Jul 06

### Complaints Brought Forward from 2005/Gearáin ar tugadh ar aghaidh iad ó 2005

Ref No.	Category – impartiality	Broadcast	Station	Date of Broadcast
Uimh Tag	Catagóir – claontacht	Clár	Stáisiún	Dáta ar Craoladh
242/05	unbalanced discussion	The Afternoon Show	RTÉ TV1	20 Nov 05
247/05	unbalanced discussion	Ireland AM	TV3	5 Dec 05
248/05	unbalanced discussion	The Afternoon Show	RTÉ TV1	20 Nov 05
258/05	unbalanced presentation	Liveline	RTÉ Radio 1	5 Dec 05
262/05	unbalanced discussion	The Afternoon Show	RTÉ TV1	20 Nov 05
270/05	unbalanced discussion	Today with Pat Kenny	RTÉ Radio 1	25 Nov 05

Ref No.	Category –taste & decency	Broadcast	Station	Date of Broadcast
Uimh Tag	Catagóir – oiriúnacht agus cuibheas	Clár	Stáisiún	Dáta ar Craoladh
190/05	promoting cruelty to animals	Toll Trolls Comedy Sketch	98FM	28 Oct 05
228/05	sexual Innuendo	Morning Ireland	RTÉ Radio 1	24 Nov 05
230/05	bad Language	The Late Late Show	RTÉ TV1	25 Nov 05
236/05	bad Language	Gerry Ryan Show	2FM	29 Nov 05
244/05	offensive remark	Prime Time	RTÉ TV1	1 Dec 05
251/05	bad Language	Rattlebag	RTÉ Radio 1	1 Dec 05

252/05	bad Language	Rattlebag	RTÉ Radio 1	2 Dec 05
254/05	inappropriate presentation	This Week	RTÉ Radio 1	4 Dec 05
257/05	offensive humour	Stew	RTÉ 2	12 Dec 05
259/05	offensive humour	Comedy Sketch	Newstalk	6 Dec 05
261/05	bad language	Anonymous	RTÉ 2	12 Dec 05
264/05	discriminatory remarks	The Late Late Show	RTÉ TV1	18 Nov 05
266/05	gratuitous reporting	Morning Ireland	RTÉ Radio 1	15 Dec 05
267/05	inappropriate content given time of airing	What I Like About You	TG4	25 Nov 05
271/05	overtly violent	Fair City	RTÉ TV1	23 Dec 05
272/05	overtly violent	Fair City	RTÉ TV1	23 Dec 05
273/05	overtly violent	Fair City	RTÉ TV1	23 Dec 05

Ref No.	Category – advertising codes	Advertising/Sponsorship/Promotion	Station	Date of Broadcast
Uimh Tag	Catagóir – cóid fógraíochta	Fógraíocht/Urraíocht/ Cur chun cinn	Stáisiún	Dáta ar Craoladh
189/05	bad Language	Jim Langan’s Furniture	98FM	Oct 05
238/05	sexual Innuendo	Fab Flooring	Limerick’s 95FM	Nov 05
245/05	misleading	All for One Gift Voucher	RTÉ Radio 1	Nov 05
255/05	inappropriate scheduling	Miller Beer	RTÉ 2	Dec 05
256/05	inappropriate scheduling	Wolf Blass Wine	RTÉ TV1	Dec 05
260/05	misleading	TV3 Promo - Competition	TV3	Dec 05
274/05	offensive	Flirting Service	TV3	Dec 05

- The Commission again records its appreciation for the co-operation it has received from the officials in RTÉ, TG4, the Independent Broadcasting Sector, the Department of Communications, Marine and Natural Resources, the BCI and the Secretary and the Executive staff of the Commission.
- Arís, ba mhaith leis an gCoimisiún a mheas a léiriú ar an gcomhoibriú a fuair sé ó na hoifigigh in RTÉ, TG4, san Earnáil Craolacháin Neamhspleách, sa Roinn Cumarsáide, Mara agus Acmhainní Nádirtha, i gCoimisiún Craolacháin na hÉireann agus ó Rúnaí agus ó fhoireann Fheidhmiúcháin an Choimisiúin.

