



Broadcasting Complaints Commission
Coimisiún um Ghearáin Chraolacháin

Complaint Form

Making a Complaint

Before completing this form please ensure that you have read the information booklet, 'Broadcasting Complaints - A Guide for Listeners and Viewers'.

You **MUST** complete this form **IN FULL**, in accordance with the Commission's procedures.

If you would like further help or advice, please contact one of the Commission's staff on the number provided on this form.

Date:	14 March 2007
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Complainant:	Please complete these details in full.
Surname	O'Sullivan-Latchford
First Name	Dónal
Mr. / Mrs. / Ms.?	Mr.
Address	Family and Media Association Alberione Media Centre Newtownpark Avenue Blackrock Co. Dublin
Daytime Phone Number	01 2789288
Email (if applicable)	info@familyandmedia.ie
Fax Number (if applicable)	

Please note that the Commission does not consider complaints where they have been made more than 30 days after the broadcast of the programme in question.

All complaints considered by the Commission are made publicly available, including the name of the complainant.



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Details of complaint	Please complete these details in full.
Name of Station	RTE RADIO 1
Programme Title / Advertisement	Liveline
Programme date: dd/mm/yr	12/02/07
Time of broadcast (if applicable)	13:45-15:00

Is the complaint an infringement of:	Please select relevant category
Impartiality	Impartiality
Law & Order	
Privacy of an individual	
Taste & Decency	
General advertising, teleshopping, sponsorship & commercial promotion codes	
Children's Advertising Code	
Slander	
Published matter in relation to RTÉ publications	

Please complete this section **briefly**, summarising the main points of your complaint (alternatively, you may attach your complaint to this form).

The Liveline show in question, which was presented by Evelyn O'Rourke, was in breach of Section 24 (2) [A] of the Broadcasting Act 2001, Fairness and Balance. This section states:

“All broadcast news must be presented and reported in an objective, fair and balanced manner and without expression of the broadcasters’ own views.

Current affairs broadcasts, including matters of public controversy or debate, must also be treated in a manner which is fair to all interests concerned. As with news, the broadcast must be presented in an objective and impartial manner, without any expression of the broadcasters’ own views.”



It should be noted here that the Broadcasting Act makes use of the word ‘any’ when stating the requirement that “the broadcast must be presented without any expression of the broadcasters own views”.

However, contrary to this requirement, Evelyn O’Rourke both in the tone and the content of her words, as well as in the way she exercised her discretion in taking calls, interrupting and challenging Mr Kelly and—by contrast—in affirming those opposed to Mr Kelly, *did* indicate her own views. The following are a few examples—there are many more but it is not possible to list them all in a brief summary.

Mr Kelly [5:20]: “He said that Colm was well able to defend himself”. Ms O’Rourke: “He sure is”. Mr Kelly: “Well why hasn’t Colm come on to defend himself on radio here today?” *This question was left unanswered ...* Ms O’Rourke [9:30]: “Sure, and Hermann how did you come across this study yourself?”... Ms O’Rourke [11:00]: “Well Andrew has got a well known book on sexual abuse as well”... Ms O’Rourke [13:00]: “Sure and everybody wants the best for children, Hermann” (said in a condescending tone and in order to interrupt Mr Kelly and bring in a ‘caller’)... Ms O’Rourke [16:25]: “Hermann’s got Learner and Nagay and studies to beat the band” (said in a mildly dismissive manner).

Without fail, the statements made by Mr Kelly were challenged by Ms O’Rourke, whereas the statements of those who were arguing against Mr Kelly were left almost entirely unchallenged, clearly giving the impression that he was ‘wrong’ and that his challengers were ‘right’!

At one point, avoiding the opportunity to keep the argument objective, reasonable and focused on the evidence regarding the effects of same-sex adoption on children, Ms O’Rourke echoed an insulting and irrelevant allegation by ‘caller’ Anne, that Hermann was “homophobic”: [16:40] “Hermann, answer to that, are you homophobic?”, she asked. At another point [19:00], she challenged, and interrupted, Mr Kelly by saying, “So your definition of ‘paedophilia’, just give that to me again”, then, “Yeah well I mean Hermann, now. Come on! you’re putting this forward in your own words, do you believe in this definition?” and then “Do you believe in the definition?”. This was after Mr Kelly had correctly pointed out that the term ‘paedophilia’ referred to abuse of children who were pre-pubescent (as can be seen, for example, by referring to Kaplan and Sadock’s *Synopsis of Psychiatry*). *However, the impression was given, unfairly, by Ms O’Rourke and Liveline, that Mr Kelly was advancing a personal opinion which was a further sign of his “homophobia”, when, in fact, he was merely drawing attention to an accepted medical definition.*

At another point [20:00], she asked a ‘caller’, who later volunteered the information that he had been contacted in advance by a researcher, “Good afternoon, Brian, (how are you) stunned, I imagine (pause) from what I’m reading here?”. Later [22:35] she asserted that “Anyone’s welcome to join in (the debate)”. But, if *anyone* was “welcome to join in”, why then did those who were allowed by RTE to express their opinions on air, *overwhelmingly* oppose Mr Kelly’s position by supporting same-sex adoption, when polls, including one done by RTE itself, consistently reveal that a majority of people are, in fact, *opposed* to same-sex adoption.

In contrast to the challenges and interruptions of Mr Kelly were the affirmations and facilitation of the ‘callers’ who disagreed with him. For example, the same ‘caller’ referred to above, later says [24:15], “It’s spreading hate here by saying that gay people can choose their sexuality.” This assertion went unchallenged, in spite of the fact that the point Mr Kelly had made was that it was *acts* or *behaviour* that people choose. In a clearly value-laden comment to another caller, Ms O’Rourke said, [28:20] “but Valerie what I’m hearing from you actually is that you don’t begrudge *anyone* who gets the chance to adopt”. After forty-six minutes she again interrupted Mr Kelly dismissively to say “Let David speak, we’ve had a lot of theory from your end” (in spite of the fact that much of what Mr Kelly said, such as the definition of ‘paedophilia’ was clearly not theory but easily verifiable fact).



This statement was immediately followed by a *verifiably false allegation* by the ‘caller’ in question, David Norris, this time to the effect that Mr Kelly had said, on air, during the same programme, that “homosexuals are sterile”. Once again, Ms O’Rourke allowed a false allegation, relating to a point of fact concerning the same programme, to go completely unchallenged.

Even considering the broadcast independently of the expression of Ms O’Rourke’s views, this liveline programme cannot be considered “fair” “balanced” and “objective”. It was clearly unbalanced and unfair to have the vast majority of on-air callers express opinions opposed to those of Hermann Kelly, for the reasons already mentioned. If RTE—who did not release details of the breakdown in calls/texts to FMA upon request—wish to suggest that this imbalance was because those calls and texts which were pro Hermann Kelly constituted an incitement to hatred, such a position would seem almost tantamount to suggesting that more than half the population is guilty of this crime.

Furthermore, that view would be unempirical as it does not accord with FMA’s own research, which reveals that a number of texts and calls were, in fact, made to RTE which clearly were not an incitement to hatred but nevertheless failed to get broadcast.

The numbers opposed to Mr Kelly were also made artificially high by using researchers to contact people who were likely to disagree with him, one of whom admitted on air that he would have been unaware of Mr Kelly’s article, had he not been contacted by RTE—as can be seen from the following exchange: [19:50] Ms O’Rourke: “Ok Hermann, we have got to bring in a lot of people on this because people are absolutely furious with what you’re saying there. We’re seeing lots of words like irresponsible up on the screen here. I’m going to bring in Brian Finnegan. Good afternoon, Brian”; Mr. Finnegan: “Hi how are you?”; Ms. O’Rourke: “Stunned I imagine from what I’m hearing”; Mr. Finnegan: “Evelyn I’m pretty stunned alright. And I was unaware of this until your researcher called me a couple of minutes ago and I started listening in.”

What also seems to be implied in Ms O’Rourke’s first set of comments here was that Mr Finnegan was one of a number of random and therefore *representative* callers who happened to be listening to the show and who were furious with what Mr Kelly was saying. *This implication of representativeness was inaccurate (as was revealed by Mr Finnegan) and grossly unfair to Mr Kelly.*

The misrepresentation of public opinion was so obvious after forty minutes that it prompted Mr Kelly to remark “One two three.. that is seven people now, Evelyn. This sounds like a bit of a hit job. But we will continue anyway.”, to which Ms O’Rourke responded, “Hermann, Liveline is open to everybody at 1850 715815. I can only put up the people who call into us. And that is what we are getting.” She made this comment in spite of the fact that a *previous* ‘caller’ had indicated that it was Liveline who had contacted him. One can only wonder how many of the other ‘callers’ had been similarly approached!



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Have you already complained to:	Yes	No
The Broadcasting Commission of Ireland?		No
The broadcaster or programme/advertising company?		No but see below
The Advertising Standards Authority of Ireland?		No

If you have answered yes, please give details below:

The following correspondence, which was not an official complaint, took place

From: Donal O'Sullivan-Latchford [mailto:donal_fm@gmail.com] **On Behalf Of** Family and Media Association

Sent: 28 February 2007 16:12

To: Martin, Sarah

Subject: Radio 1 Liveline 12 February 2007

Ms Sarah Martin
Senior Press Officer
RTE Radio
Donnybrook
Dublin 4

Dear Ms Martin

As several people have been struck by the high number of calls taken from those who were opposed to the position of Hermann Kelly on the Liveline broadcast of Monday 12 February, 2007, the Family and Media Association would like to request a breakdown of the calls and texts received by Liveline on that day, in terms of whether they were for or against Mr Kelly's position.

We would also be interested in finding out which of the callers heard on Liveline were contacted, in advance, by the Liveline team.

Yours faithfully

Donal O'Sullivan,
Family and Media Association www.fma.ie info@fma.ie 01 278 9288



Broadcasting Complaints Commission
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From: Martin, Sarah [mailto:sarah.martin@rte.ie]
Sent: 01 March 2007 17:10
To: Family and Media Association
Subject: RE: Radio 1 Liveline 12 February 2007

Dear Mr O'Sullivan,

Thank you for your email relating to RTÉ Radio 1's *Liveline* programme broadcast on Monday 12 February, 2007.

It is against RTÉ Radio policy to release details of calls and texts from members of the public to programmes. Further, the editorial processes of radio programmes are exempt from Freedom of Information.

Kind regards,

Sarah.

Sarah Martin

Senior Press Officer

RTÉ Radio

Tel: 01 208 2312

Email: sarah.martin@rte.ie

Any correspondence relating to this complaint with the relevant broadcaster should be attached to this form.

Is the matter complained of, the subject of any proceedings in a court of law in the Republic of Ireland?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

To finish, please read through the above form to ensure all your details are correct.



Broadcasting Complaints Commission
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The Broadcasting Complaints Commission

Any viewer or listener who is not happy about broadcasting content on an Irish broadcasting service, whether in programme or advertisement form, has a right to complain about it and have their complaint handled by the Broadcasting Complaints Commission.

The Broadcasting Complaints Commission has been given the responsibility by the government to deal with all broadcasting complaints, which means the Commission looks at, considers and decides upon the nature of these complaints.

How to make a complaint

All complaints **must**

- be in writing, preferably by completing this 'Complaint Form'
- be made within 30 days of the broadcast
- relate to a broadcast by an Irish broadcasting service
- come within the relevant broadcasting codes and/or legislation
- include a short detailed summary of what might have caused offence.

All complaints considered by the Commission are made publicly available, including the name of the complainant.

Broadcasting Complaints Commission
2 – 5 Warrington Place,
Dublin 2.

Telephone: 01 676 1097
Fax: 01 676 0948
Email: complaints@bcc.ie
Website: www.bcc.ie



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13 April, 2007.

Andrea Leonard
Complaints Officer,
Broadcasting Complaints Commission,
2 - 5 Warrington Place,
Dublin 2.

Complaint Ref: 84/07

Dear Ms Leonard,

Thank you for your letter dated 02 April 2007.

I hereby request that the Commission continue to process my complaint as I have not found RTE's reply to be satisfactory.

In this regard, I am somewhat puzzled that RTÉ has made no effort to answer many of the points which I had raised. Most notably, RTÉ has not commented on the fact that (on two occasions) "Ms O'Rourke allowed a false allegation (against Hermann Kelly), relating to a point of fact concerning the same programme, to go *completely unchallenged*."

Am I to assume that RTÉ has therefore acknowledged its error in this regard. Such an admission, even considered without reference to any of the other points of complaint, would, I believe, be more than enough to establish bias on the part of the presenter.

I am also disappointed that RTÉ states "this is the fifth complaint about (the) programme which the BCC has forwarded to RTÉ", and, later, "it has really nothing further to add (in response to my complaint)."

That this is the fifth complaint about the programme, is of no relevance to my particular submission. I have not seen any of the other complaints but I presume they do not contain all the points I had made. That a programme should prompt several complaints is not an excuse for a broadcaster to be dismissive of any one of them. Neither is it an excuse to treat the individuals or organizations involved without the dignity they should be afforded *as individual* viewers or organizations.

I also note that RTÉ seems to have accepted that there was an implicit imbalance in 'caller' views when it uses the expression "any imbalance in views expressed by the callers".

Its assertion that this imbalance "was more than addressed by allowing Mr Kelly contribute at such length on the programme" is incorrect on three counts: firstly, the contribution of Mr Kelly was curtailed on several occasions as outlined in my original complaint; secondly, the air time given to Mr Kelly was substantially less than that given to the other callers combined; and thirdly, even if Mr Kelly had been allowed equal time to contribute freely, this would not adequately have addressed the imbalance, as a false impression would have remained that his was an isolated view which was unrepresentative of the public in general.



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The fact that some or even many of the callers may, as RTE tentatively suggests, have been ‘unusable’ does not take away from the fact that many more were not. I note that RTE does not, now, seem to be attempting to deny this. These callers should have been allowed to speak and allowed to speak earlier before the false impression, that I referred to above, was established.

Finally, with regard to the implication that many of the contributors may have been approached (in advance) by the production team and asked to contribute, this seems a reasonable assumption based on the evidence from this broadcast *alone*. RTE contend in their letter that a potential contributor (singular) is only *occasionally* contacted in advance by the production team and then only in order to “kick off the debate”. If such is the case, why did the one contributor who openly admitted to having been contacted in advance, Brian Finnegan, not actually come on air until *twenty minutes* into the debate and, only then, *after two other ‘callers’* had spoken at length against Hermann Kelly. This is hardly ‘kicking off’ the debate. One side seems to have been playing with illegal players who were selected by the referee, and most of the opposing team was ‘taken out’ before it could even get on the ball.

Yours sincerely,

Dónal O’Sullivan-Latchford
Family and Media Association

Phone 086 330 9724 or 01 278 9288