[IE] Investigative reporters purchasing drugs online in public interest

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The compliance committee of the Broadcasting Authority of Ireland (BAI) has held that the public broadcaster RTÉ did not violate broadcasting rules during a programme on the purchase of abortion pills online. A complaint had been made over an October 2014 broadcast of RTÉ's investigative programme 'Prime Time', claiming the programme breached the Broadcasting Code's rules on fairness and objectivity, and the Broadcasting Act's prohibition on promoting or inciting crime.

The Prime Time programme first featured a pre-recorded report, where a reporter explained how a group had been advertising the availability of "abortion pills" on posters in Dublin. The reporter pursued the advertised process; ordering the abortion pills online, making a EUR 90 donation, and, "demonstrating and explaining to the viewer how she was assisted in circumventing the law" by the group,collecting the pills by post. The programme then featured a studio discussion, with a representative from the "abortion-pill" group and a representative from an anti-abortion group, debating the potential risks of taking prescription drugs without medical supervision.

Under section 48 of the Broadcasting Act 2009, individuals may make a complaint to the BAI that a broadcaster failed to comply with the broadcasting rules. First, the complainant argued that there had been a breach of rule 4.1 of the Code of Fairness, Impartiality and Objectivity in News and Current Affairs: that broadcast treatment of "current affairs" must be "fair to all interests concerned", and the broadcast matter "presented in an objective and impartial manner". It was argued that the programme's "objective" was "the presentation of another option for women who want to obtain an abortion", and that its "underlying message" was that it was "a safer method than these 'back street' abortions".

Second, the complainant argued the programme breached section 39(1)(d) of the Broadcasting Act 2009, which prohibits broadcasting of "anything which may reasonably be regarded as (...) being likely to promote, or incite, to crime". It was argued that the programme "showed how the tablets can be illegally imported into Ireland for the purpose of engaging in criminal activity, namely the termination of the lives of unborn children", and the "message that nobody will be prosecuted in Ireland for breaking the law in this regard".

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The BAI unanimously rejected both grounds of complaint. On the impartiality point, the Authority held that the Prime Time programme's aim "was an examination of the facts of a situation where an organisation was facilitating the illegal importation of abortifacients into Ireland", and that the studio discussion was fair, with the representative being subjected to "robust questioning". On the promotion and incitement to crime point, the Authority "noted that the purchase of the drugs and their importation was undertaken in the public interest and that the broadcaster had liaised with the appropriate authorities. In the context of investigative reporting, the approach taken by the broadcasters was in line with standard investigative journalistic practice where the intent is the exploration of an issue in the public interest and not actions of a criminal nature".

Broadcasting Authority of Ireland, Broadcasting Complaint Decisions, June 2015, pp. 21-24

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