[IE] Complaint from government health authority over RTÉ investigative programme rejected

IRIS 2015-10:1/19

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On 1 September 2015, the *Broadcasting Authority of Ireland* (BAI) held, by a majority, that the public broadcaster RTÉ did not violate the Broadcasting Act's and Broadcasting Code's rules on fairness and objectivity when it broadcast a programme based on a leaked internal document from a government health authority. A complaint had been made by the *Health Service Executive* (HSE) to the BAI following a broadcast of RTÉ's current affairs programme "Prime Time", which concerned a pregnant asylum seeker and her interactions with a number of government agencies. The programme broadcast information from a draft report which had been commissioned by the HSE, and which had not yet been made public.

The HSE claimed that RTÉ had violated section 48(1)(b) of the Broadcasting Act 2009, as not "fair to all interests concerned" because it "misled the public in relation to the nature of the draft report", as the broadcaster did not make reference to the fact that it was a very early draft of the report, the key interviews and facts had not yet been considered and that the information contained in it had not yet been verified". Moreover, the HSE claimed that it was not "contacted by RTÉ prior to the broadcast and were not given the opportunity to object to the broadcast or to contribute to it", being told by an editor that this "was to eliminate the possibility that the HSE would obtain an injunction prohibiting the broadcast of the programme".

The BAI first reiterated that broadcasters "may choose to bring into the public domain documents that it has received and that this may on occasion be done against the expressed views of the creators of said documents", and holding that the draft report had a "significant public interest". Second, it was held that "the broadcaster had taken adequate steps to ensure that viewers to the programme would be very clear about the status of the H.S.E. report as a draft document." Finally, the BAI held that because the draft report was commissioned and produced by the HSE, no "unfairness arose from the decision of the broadcaster not to include a contribution from the HSE".

Broadcasting Authority of Ireland, Broadcasting Complaint Decisions, September 2015, p. 11

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