[IE] Broadcaster's prank call violated public official's privacy

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On 21 December 2016, the Broadcasting Authority of Ireland (BAI) held that a prank call made by a broadcaster to a state agency employee violated Principle 7 of the BAI Code of Programme Standards on respect for privacy. The programme concerned was the Nick Richards Show, which is a music-driven show broadcast on weekday mornings. During a July 2016 broadcast, a prank call was made to an employee of the State Examinations Commission (SEC) by a member of the show, as part of a pre-recorded daily comedy spot featuring prank calls. The call usually ends with the presenter revealing the prank nature of the call; however, on the occasion in question, the SEC employee ended the conversation before the "reveal".

The SEC made a complaint to the BAI on behalf of its employee, as it had a "duty of care to protect the interests of its employees". It argued that its employee had not been informed before or after the call that it had been recorded, and the employee "would not have consented" to the material being broadcast. It was argued that the broadcast violated the employee's right to privacy recognised under Principle 7 of the BAI Code of Programme Standards.

The BAI's Compliance Committee decided to uphold the complaint. First, the Committee noted that Principle 7 of the BAI Code of Programme Standards recognises that individuals have a right to privacy. As such, "broadcasters are required to respect, and not unreasonably encroach upon the privacy of the individual, either in the manner in which programmes are made or broadcast". Secondly, the Committee also noted that under Principle 7, "broadcasters are obliged to have due regard for the concept of individual consent and ensure that participants in a broadcast are generally aware of the subject matter, context and the nature and format of their contribution so that their agreement to participate constitutes informed consent". The BAI held that, having regard to the fact that the recording of the caller was broadcast without the caller's consent, "the caller's privacy was encroached upon unreasonably. There had thus been a violation of the Code of Programme Standards.

Broadcasting Authority of Ireland, Broadcasting Complaint Decisions, December 2016, p. 18

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