[IE] Public broadcaster pays damages over unverified tweet during election debate

IRIS 2018-2:1/22

Ronan Ó Fathaigh
Institute for Information Law (IViR), University of Amsterdam

On 19 December 2017, the public broadcaster RTÉ settled the ongoing legal proceedings that had been initiated by a former presidential candidate against RTÉ over a 2011 televised election debate. The claim centred on RTÉ's 2011 election debate, when the presenter questioned the candidate about a statement concerning him that had just been made on the supposed official Twitter account of another candidate. It later turned out that the tweet had been attributed, in error, to the official Twitter account of the other candidate. In March 2012, the Broadcasting Authority of Ireland (BAI) held that the programme had been in breach of section 39(1)(b) of the Broadcasting Act 2009, being "unfair" to the candidate (see IRIS 2012-5/27). However, the BAI decided that the complaint was not of such a serious nature as to warrant an investigation or public hearing.

The candidate, who was not elected, initiated legal proceedings against RTÉ in January 2013, claiming that RTÉ had acted negligently in putting the question to him over the tweet, and had sought to undermine his credibility. The candidate also claimed that RTÉ had directed the debate with the improper aim of altering the course of the election, that RTÉ had promoted the electoral chances of another candidate, and that RTÉ's conduct was targeted malice intended to damage him. Mr Gallagher also claims damages, including aggravated or exemplary damages, or both, against RTÉ for negligence and breach of duty (including breach of statutory duty). In April 2017, the High Court dismissed RTÉ's application to have the claim struck out (see IRIS 2017-6/21).

In the High Court on 19 December 2017, RTÉ issued an apology to the candidate, and informed the Court that the proceedings could be ended. In its statement to the Court, RTÉ

acknowledged that it had failed to comply with its statutory duty under section 39 of the Broadcasting Act in the course of the Presidential Election Debate programme which was broadcast on 24 October 2011. The broadcaster acknowledged that it should have verified the origin of a tweet to which reference was made during that broadcast and that the tweet should not have been erroneously attributed to another candidate's Twitter account.

© European Audiovisual Observatory (Council of Europe) 2026

Further, RTÉ stated that it had failed in its obligation of fairness to the candidate under the Broadcasting Act, and in particular (i) in the broadcast of the tweet without verification; (ii) in the failure to provide clarification on the provenance of the tweet within the same programme and (iii) in the failure likewise to provide clarification of the provenance of the tweet in a subsequent radio broadcast on 25 October 2011. Finally, RTÉ paid "substantial damages" in settlement of the legal action, although the exact terms of the settlement were confidential.

Ireland is due to hold a presidential election in October 2018.

RTÉ, "RTÉ apologises and pays Gallagher settlement over tweet," 19 December 2017

https://www.rte.ie/news/2017/1219/928417-sean-gallagher-rte/

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026