[IE] Decision on public broadcaster’s impartiality

IRIS 2018-8:1/32

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On 27 June 2018, the Broadcasting Authority of Ireland (BAI) issued a notable decision on a public broadcaster’s compliance with impartiality rules in its coverage of the possible imminent resignation of a government minister. By a majority, the BAI Executive Complaints Forum found that the RTÉ current affairs programme, where the minister in fact resigned the following day, had not infringed requirements of the Broadcasting Act 2009 nor the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs.

The decision concerned Claire Byrne Live, a well-known current affairs programme broadcast by the public broadcaster RTÉ on its RTÉ One television channel. The programme at issue was broadcast on the evening of 27 November 2017, and concerned a news story regarding the discovery of an email in the Department of Justice that appeared to indicate that the then Minister of Justice may have been aware of a controversial legal strategy being adopted against a police whistleblower (see, relatedly, IRIS 2017-4/23). A complaint was made to the BAI about the programme, arguing that it lacked impartiality, as the broadcaster appeared to make a collective decision that the email in question represented prime facie evidence of poor political judgement and then demanded the political head of the minister. The complainant also argued that the presenter became an active participant in the political attack on the minister.

The BAI considered the complaint under Section 48(1)(a) of the Broadcasting Act 2009, and Rules 4.1 and 4.2 of the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs, which provide that the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of his or her own views.

In its decision, the BAI first reiterated that broadcasters must ensure that current affairs content is compiled, produced and presented in a manner which is and can be seen to be, independent, unbiased and without prejudgement. It further noted that broadcasters are required to facilitate a range of views and to ensure that presenters do not express their own views such that a partisan position is advocated. Next, the BAI noted that the focus of the programme was on the potential political ramifications of the discovery of the email, including the

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potential for the Minister for Justice resigning or being asked to resign and the possibility of a general election being called if she didn't. The BAI found that while a considerable proportion of the programme was focussed on the possible resignation of the minister, the presenter facilitated the expression of a range of views across the party political spectrum and the government representative was given ample time to convey his opinions on the matter. The programme also presented on-screen and read out tweets from the Minister for Justice on the issue and reported the views expressed by the government press office. The BAI found no evidence in the content of a collective decision by the broadcaster to seek the resignation of the Minister for Justice. The BAI was also of the view that the questions and interventions by the presenter were appropriate in the context of the programme and the breaking news story and found no evidence of any expression of her own views or advocacy of a partisan position.

In light of these considerations, the BAI Executive Complaints Forum concluded, by a majority, that there had been no infringement of the requirements of the Broadcasting Act 2009 nor the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs.

Broadcasting Authority of Ireland, Broadcasting Complaints Decisions, June 2018, 27 June 2018, p. 50

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