

25 April 2019

Broadcasting Authority of Ireland
2 - 5 Warrington Place
Dublin D02 XP29

Dear Sir or Madam

Complaint: RTÉ and AA Roadwatch

I wish to refer to the BAI a complaint against RTÉ I made on 22 March 2019. I believe that the reply from Brian Dowling of RTÉ dated 28 March is inadequate. I requested a review as per RTÉ's complaints procedure set out on their website¹, however on 5 April Mr Dowling emailed me indicating that RTÉ is unwilling to give any further response.

Please send all correspondence by email.

My complaint is that the broadcast of AA Roadwatch is unacceptable under RTÉ and BAI rules on the following grounds:

1. AA Roadwatch meets the BAI's definition of a sponsored programme, and breaches a number of RTÉ's and the BAI's rules on sponsored programmes
2. By broadcasting AA Roadwatch, RTÉ is unfair to other insurers
3. By broadcasting AA Roadwatch, RTÉ is unfair to other campaign groups
4. RTÉ gives disproportionate prominence to traffic news bulletins; this skews public debate on transport and planning
5. It is unacceptable that RTÉ gives such a degree of editorial control to the AA on a topic core to the AA's political campaign.

Background

AA Roadwatch is presented as a 'traffic news' slot and broadcast across all RTÉ stations 158 times per week². The broadcasts typically last about 90 seconds, listing about six locations where traffic is, or is not congested ('earlier delays have cleared', 'normal traffic volumes').

The presenters are AA staff members who typically are media, advertising or marketing graduates. There is no evidence that they have any qualifications or experience in transport economics or any related field, or that they have any special skills unavailable to RTÉ.

They broadcast from studios in AA Ireland's Dublin office and write their own scripts which they read live on air. RTÉ presenters introduce the broadcasts as 'AA Roadwatch', and the AA presenter signs off by repeating the AA Roadwatch name and urging listeners contact the AA by telephone, Twitter or via their website.

1. Breach of sponsorship rules

RTÉ, in their reply to my complaint, said that AA Roadwatch “is not sponsorship”. The BAI defines sponsorship as a:

“contribution ... to the financing of ... programmes with a view to promoting [the sponsor’s] name, its trade mark, its image, its activities, its products or its services.”

There are, therefore two tests - 1) the sponsor makes a contribution in cash or kind, and 2) the sponsor’s name is promoted. If a programme meets both tests, it is a sponsored programme. The AA employs and pays the AA Roadwatch presenters, and pays the rent on AA Roadwatch studios, so it clearly meets the first test. The AA’s name is mentioned by both the RTÉ presenter and the AA Roadwatch presenter on each bulletin, so it meets the second test.

In addition, AA Roadwatch presenters urge listeners to visit their website or their Twitter account which links directly to the AA’s website³, from which they sell insurance⁴ and promote their political campaigns, however this is not required to establish that it is a sponsored programme; just that 1) the AA makes a contribution to the production costs, and that 2) the AA’s name is promoted.

RTÉ Broadcast Sponsorship Guidelines prohibit sponsorship by “any body whose intents are wholly or mainly political in nature”.

The AA was established in the UK to resist the introduction of speed limits. Since separating from its parent company, AA Ireland has continued to campaign extensively on transport issues, particularly in favour of road-building, against public transport, and against taxation of the motor industry. In its 2016 submission to the Central Bank of Ireland the AA said it

“has acted as a *lobbyist for motoring interests* and in a leadership role supporting the consumer rights and interests of the motorist for over 100 years.”⁵

The Regulation of Lobbying Act 2015 requires all political lobbyists to register with the Standards in Public Office Commission and notify them of each act of lobbying. The AA has registered as a political lobbyist⁶ and its entry on the SIPO website lists dozens of times that it has lobbied civil servants, ministers, and other politicians. The register shows that almost all their lobbying is directed at influencing government policy on transport.

Since their foundation, the AA have expanded to offer roadside assistance and insurance, but political lobbying on behalf of the motor industry remains a core activity.

Breach 1a - RTÉ permits a political lobbyist to sponsor a programme.

RTÉ sponsorship guidelines say:

“the overriding principle [is] that editorial independence must apply in all cases and be clearly seen to apply, the selection of sponsors for informational type programmes needs special attention ... for example, a Financial Services Company may not sponsor a programme giving advice on how to manage personal/family finances. However, it is quite conceivable that an Airline or a Motor Manufacturer, etc. could sponsor such a programme.”⁷

and later:

“An important practical yardstick is that no impression be created of external commercial influence on the editorial process.”

The clear intent of this rule is to prevent a sponsor 1) from sponsoring a programme that touches on their interests and 2) from having, or appearing to have, influence over the editorial content of a sponsored programme.

It could not be clearer that the content of AA Roadwatch is of intense interest to the AA, as is set out below in section 4.

Breach 1b - RTÉ allows sponsorship of a programme by a company that has an interest in influencing its content.

AA staff members select items for inclusion AA Roadwatch, write their own scripts, and read them live on air without RTÉ staff being aware of the exact content until it is broadcast.

Breach 1c - RTÉ fails to retain editorial independence of a sponsored programme.

2. Unfair to other businesses

The existence of AA Roadwatch gives the AA credibility and RTÉ's imprimatur as an official source of trustworthy information. This provides the AA with branding that is unavailable to competing businesses. Dr Michael Foley, professor emeritus at the school of media at TU Dublin (DIT) and member of the NUJ's Ethics Council has said

“The AA has become an incredible brand because of AA Roadwatch ... it became very identifiable as a piece of goodwill for the company.”⁸

AA Roadwatch presenters have promoted the AA's website (AARoadwatch.ie) ‘for more traffic news’. In fact, this website is primarily used to sell the AA's roadside assistance and insurance. The very first links on the website are ‘Membership’ (selling roadside assistance), ‘Car’ (selling motor insurance) and ‘Home’ (selling home insurance).

AA Roadwatch presenters have urged listeners to call 1850 542 542 (‘but not while driving’) to ‘report’ traffic. This telephone number connects listeners to an IVR system which gives a number of options. While one option is to leave a message for AA Roadwatch, other options are to purchase ‘membership’, motor and home insurance, and other products.

It seems that the AA have paused the promotion of their insurance sales line and website on AA Roadwatch since I raised this issue with RTÉ. In any case, AA Roadwatch presenters now concentrate on promoting their Twitter account which links directly to the same insurance sales website. This gives the AA an unfair branding and sales advantage over rival insurance brokers.

Breach 2 - RTÉ fails to treat the AA's insurance competitors fairly, gives the AA a branding opportunity not open to others, and unfairly allows the AA to advertise its sales channels, while denying that opportunity to others.

3. Unfair to rival campaigners

Transport issues are hotly debated in Ireland; lobby groups variously advocate improving public transport and planning, increasing or reducing taxation on motoring, and increasing or reducing road-building. RTÉ have a duty to present all these opinions fairly.

By including AA Roadwatch in the radio schedule RTÉ gives the AA its imprimatur as an official source of trustworthy information; this is an unfair advantage over rival campaigns.

The public's view of AA Roadwatch is so intimately intertwined with the extensive on-air campaigning of the AA's lobbyist Conor Faughnan that it is impossible for the authority conferred by the “public service announcement” style of AA Roadwatch not to leak across to the AA's political lobbying.

The perception of AA Roadwatch is so thoroughly intermingled with the lobbying of the AA that RTÉ journalists themselves frequently attribute Conor Faughnan's on-air campaigning of to ‘Conor Faughnan of AA Roadwatch’⁹. If RTÉ journalists do not draw a clear distinction between AA Roadwatch and the lobbying activities of the AA, it is certain that the listeners do not.

RTÉ presenters of factual programmes are prohibited from engaging in political activities, because it is important that the authority conferred by being, say, a newsreader, is not used to support one political cause or another.

This principle is violated by allowing one political lobbyist, the AA, the status of a neutral voice on a topic that is so closely related to its area of campaigning. RTÉ present other campaigners' views through the prism of their sectional or political interests; they present the AA as a provider of uncontested information.

Breach 3 - RTÉ gives the AA's political lobbying undue authority, and allows the AA an association with AA Roadwatch which presents it as neutral voice, rather than an industry lobby group.

4. Skewing public debate

Many people in Ireland face transport difficulties including traffic congestion, unreliable public transport, and areas where public transport does not exist at all. Each of these topics is discussed regularly on RTÉ, however ‘regularly’ in this context would not usually exceed a handful of items per month across all RTÉ radio.

However, in addition to current affairs coverage, RTÉ broadcasts over 700 traffic news bulletins per month, all highlighting traffic congestion. This focuses attention on one aspect of the transport debate, swamping discussion of all other transport issues.

Creating a ‘traffic news’ slot sends the message that traffic congestion is more important than problems with public transport or urban planning. In addition RTÉ place AA Roadwatch primarily in flagship news programmes. When RTÉ cut from the Dáil or the White House to a report that ‘*traffic is slow-but-moving on the Lower Glanmire Road*’, they are communicating that traffic congestion is a problem of burning urgency which surpasses, for example, the problems of people affected by unreliable public transport - where is Dublin Buswatch?

There is an active national debate where private cars compete with public transport for funds and for road space; AA Roadwatch frames this discussion unfairly in favour of the motor industry, and those who advocate car-based solutions to transport problems.

Evidence that this framing moulds the national debate can be found on the Oireachtas record, where politicians have presented AA Roadwatch as empirical evidence, suitable for forming government policy.

“... every morning, given every road that could be reported on in the country by AA Roadwatch, early congestion on the N11 features ... Will the Minister factor that in? Perhaps he will write back to me or we can meet to see if that can help expedite investment to alleviate the ongoing congestion.”
*Stephen Donnelly TD, Dáil record, 17 January 2018*¹⁰

“The road into Adare has been named by AA Roadwatch as one of the worst in the country in terms of traffic tailbacks. It also appears on the AA’s list of the country’s seven slowest roads. The list was based on the findings of the AA ... I am making a case for Adare to be bypassed.”
*Dan Neville TD, Dáil record, 4 November 2014*¹¹

“This junction is so significant that it regularly features on AA Roadwatch reports ... the junction must be upgraded quite quickly.”
*Derek Keating TD, Dáil record, 13 March 2013*¹²

When the AA were lobbying the government to remove the West Link toll¹³ Catherine Murphy TD said:

“I listen to AA Roadwatch to measure how difficult it will be for me to travel here and every time I hear it the West Link toll bridge is mentioned. This is a crisis. Something must be done about it and could be done in the short term by raising the barriers and covering the cost of doing so.”
*Dáil record, 21 November 2006*¹⁴

The AA lobby politicians for the taxpayer to pay the West Link toll; AA Roadwatch highlights the ‘congestion’ that is caused by drivers having to pay the toll; a politician cites AA Roadwatch’s reporting as evidence supporting the AA position. This is an example in plain sight of AA Roadwatch content buttressing one of the AA’s political campaigns to change government policy.

Breach 4 - By broadcasting AA Roadwatch, RTÉ unbalances the public debate on transport.

5. Potential for bias

Broadcasting fairness rules require RTÉ to not only avoid bias, but also the appearance of bias. Even if it were never used, it is unacceptable for RTÉ to give to a political lobby group the opportunity to select and spin items broadcast, to suit the lobbyist’s agenda.

Therefore, the test is not whether it can be demonstrated that bias *has occurred*; the test is whether RTÉ has robust procedures in place to ensure that no political lobby group is *in a position* to influence broadcasts to their advantage.

AA Roadwatch presenters, who write their own scripts, are

- employed and paid by an organisation registered with SIPO as a political lobby group
- broadcasting from the registered office of that registered political lobby group
- sharing that office with a professional lobbyist whose job is to influence public opinion and government policy
- selecting items for broadcast that impact directly on the lobbying of their employer

In these circumstances, any reasonable person would conclude that the selection of items, and the spin put on those items, could well favour the registered political lobby group.

For example, during the construction phases of the Luas (2001 - 2004 and 2013 - 2017), AA Roadwatch bulletins regularly emphasised the ‘congestion’, ‘delays’ and ‘disruption’ caused by Luas works.

A central aim of the AA’s lobbying has been to oppose the development of the Luas. A key argument used by the AA while lobbying is the impact of Luas construction work on car traffic¹⁵.

A reasonable person would be likely to conclude that the emphasis placed by AA Roadwatch presenters on negative aspects of the Luas construction is motivated, at least in part, by a desire to serve their employer’s interests and use their 158 broadcasts per week to support its lobbying aims.

Breach 5 - RTÉ allows, at a minimum, the perception that the content of AA Roadwatch is crafted to support the goals of a registered political lobby group.

Please contact me by email or telephone on 01 4738 078 or 086 606 9401 if you require any further information.

Yours sincerely



William Campbell

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 2 <http://bit.ly/2KktitF>
 3 <http://bit.ly/2UjOBA2>
 4 <http://bit.ly/2FUzrY4>
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