

To: Professor Chris Morash, Chairperson, Compliance Committee, Broadcasting Authority of Ireland (*via Jean Crampton, BAI*)

From: Tom Cooper, 23 Delaford Lawn, Knocklyon, Dublin 16.

BAI Complaint Ref: 70/12

An Tost Fada, Praxis Films, Gerry Gregg, producer-director, Eoghan Harris, scriptwriter-narrator, broadcast RTÉ One television, 16 April 2012

(Dear Jean, please also forward a copy of this letter to members of the Authority and of the Compliance Committee)

October 16, 2012

Dear Professor Morash,

I refer to the BAI's letter of 5 October 2012 to me from Jean Crampton, enclosing the BAI Compliance Committee's determination, under your signature as Chairperson, on my complaint, BAI number 70/12.

The refusal of the BAI Compliance Committee to consider my complaint about the RTÉ programme *An Tost Fada* (RTÉ One, 16 April 2012) under Section 48 (1) (a) of the Broadcasting Act 2009 is, by any reasonable standard, perverse.

RTÉ agrees with me that this is the applicable section under which the complaint should have been investigated. It is the standard under which such complaints have been adjudicated on in the past.

My complaint noted RTÉ's acceptance of errors in two key programme areas. RTÉ agreed that the programme confused the IRA execution of two farmers for informing, named Connell and Sweetman, in February 1921 during the War of Independence, by broadcasting instead that they were killed for sectarian reasons in April 1922. I pointed out that that the death of the two men was well documented (indeed including by Eoghan Harris in his review of *Jasper Wolfe of Skibbereen* in the *Sunday Independent*) and that the date of death was known to the programme makers who obscured it in the broadcast.

RTÉ also broadcast that, as a result of sectarian persecution immediately after the killing of the two farmers, the Church of Ireland Salter family (the subjects of the programme) fled West Cork in April 1922. It was further broadcast that the British government simultaneously gave them £1,700 emergency compensation. RTÉ concede that this compensation figure broadcast was also wrong.

However, I demonstrated that the ancillary claims broadcast alongside that assertion were wrong too. No emergency compensation was paid in 1922. Mr. Salters did not leave in a hurry in April 1922. He sold his farm for £1,900 to a local Auctioneer in June 1922 under instruction. Salters claimed in his (not broadcast) comprehensive 1927 claim to the British government that this was under IRA instruction due to his loyal and active support for the British Crown during the War of Independence. In 1928 the British government offered compensation to Mr. Salters as a loyalist for events that happened prior to April 1922. These claims were again easily checkable but RTÉ ignored those errors also. That formed part of my compliant to the BCI. I was not concerned solely

with the actual amount of compensation (a false nitpicking impression promoted by RTÉ and unfortunately amplified by you).

I was concerned that RTÉ portrayed falsely the political persecution of a loyalist who supported the British government during the War of Independence as sectarian persecution. I was concerned that RTÉ used this example to create an impression of generalized sectarianism from republican forces throughout the War of independence and afterwards. I was concerned that RTÉ relied on a demonstrably fallible but honestly expressed view of events about his family, that occurred three years before 87-year-old Rev'd George Salters (the main interviewee) was born. A competent objective broadcaster would have checked the views expressed by Rev'd Salters. Events in the past are not exempt from statutory regulation by virtue of their presumed antiquity. The programme could have been an enlightened pathway of personal discovery. Instead it was made to fit within a preconceived agenda that excluded uncomfortable facts.

I also noted that RTÉ had abandoned the perfectly sound policy of employing a competent historian on historical documentaries (not merely 'controversial' ones) who would hopefully be in a position to question incompetent, incorrect and biased presentations of the past. I asked RTÉ and the BCI to consider reinstating this sensible practice.

I also claimed that a photograph of members of the Salter family in Edwardian costume from the early part of the 20th Century (c. 1905) was presented as taken in 1915 and used to demonstrate sectarian antagonism toward the Salters, who, it was claimed, all emigrated after 1915. I demonstrated that these claims too were factually incorrect.

Finally, I asked, as per Broadcasting act stipulations, for a balancing programme.

RTÉ and now the BCI contend that the "personal" views of an 87 year old clergyman, Rev'd Salters (who Eoghan Harris and Producer Gerry Gregg used to promote their view of this period of Irish history), are not subject to fact checking, and that the resulting mistakes in Rev'd Salters' 'recollection' of events, that happened three years before he was born, are not subject to the statutory requirement test of fairness, impartiality and objectivity.

However, your interpretation of applicable sections of the Broadcasting Act is demonstrably false.

Section 48 (1) (a) of the Broadcasting Act 2009 refers to a complaint that 'a broadcaster did not comply with one or more of the requirements of section 39 (1) (a) and (b)' of the Act.

Section 39 (1) (b), the relevant section, states:

"[Every broadcaster shall ensure 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, except that should it prove impracticable in relation to a single broadcast to apply this paragraph, two or more related broadcasts may be considered as a whole, if the broadcasts are transmitted within a reasonable period of each other."

In your determination (p. 5) you state:

“while the programme focused on a matter of debate and controversy amongst historians, it was the Committee’s view that the item did not, contrary to the views of the complainant and the broadcaster, constitute news and current affairs as it was not a matter of current public debate and controversy. For this reason, it did not have to comply with the statutory requirements for fairness, objectivity and impartiality in news and current affairs.”

I take issue with this.

First, I would like you to please indicate where in the Broadcasting Act it states that, ‘debate and controversy amongst historians’, on subjects that are also the subject of television programmes, is not to be considered a ‘matter [...] of public controversy or the subject of current public debate’ (definition of current affairs, Broadcasting Act, section 39 (1) (b)). Can you please indicate other professions whose favoured subject matter for debate is, when broadcast, in your view also not considered part of public debate or controversy?

In my view your position on this point entirely misconstrues the plain meaning of the Broadcasting Act in this context.

Second, the subject matter of the programme, sectarianism during the War of Independence, is probably one of the most often publicly considered topics in Irish history. Indeed, the programme’s narrator and scriptwriter, Eoghan Harris has written about that topic consistently for at least fourteen years in columns in the *Sunday Times* and *Sunday Independent*.

The subject matter has also been considered in the *Times Higher Education Supplement*, *The Irish Times*, *The Sunday Times*, *The Irish Independent*, *Phoenix* magazine and by other news media in 2012 alone. I outlined some examples in my email to the BAI of 24 July 2012 (copy appended to this letter). The subject is also part of an ongoing debate in *History Ireland* magazine since January of this year (*History Ireland* is a publication freely available in shops, by subscription and online, consulted by numerous members the general public, some of whom may be historians). Last January the National Library hosted a public debate on this subject, entitled, *The War of Independence, Four Glorious Years or Squalid Sectarian Conflict*. The speakers were Professor David Fitzpatrick and Dr Eve Morrison of TCD, Dr John Borgonovo of UCC and Dr John Regan of Dundee. Over 150 attended and a video of the debate is available on the internet. In April 2012 in Cork, over 500 people attended two public lectures on the subject from Dr Regan and from Dr Andy Bielenberg of UCC in the Imperial Hotel, Cork. Rev’d Salters attended, as did other members of the Church of Ireland community in Cork. Whoever informed you that publicity shy historians huddle together in small rooms in academic institutions to discuss this subject is sadly mistaken.

I ask that the Broadcasting Commission of Ireland to reconsider its mistake and reverse a decision that may come to be viewed as a biased broadcasters’ charter. It has the potential to destroy public service broadcasting and to institute a regime in which personal observations are broadcast with impunity,

without being subject to basic codes of journalistic and broadcasting ethics requiring that facts be checked. It is your job to be the gatekeeper of the public interest, not to open the door to tendentious observations masquerading on a public service broadcaster as authoritative, researched, information. I do not blame Rev'd Salters for the mistakes broadcast by the programme and I object to RTÉ blaming him for RTÉ's mistakes. I blame broadcasters who used the uncorroborated and unchecked opinions of an 87 year old man, about events long ago in which he played no part (being unborn), to pursue their frequently expressed political and historical agenda.

Finally, a question, one of the compliance committee members is a *Sunday Independent* colleague of Eoghan Harris, Professor Colm Kenny. Can you tell me if he declared an interest during the Compliance Committee discussions on this complaint and whether he took any part in the deliberations on this complaint?

Yours sincerely,

Tom Cooper

(July 24 2012 letter to BAI follows overleaf)

Appendix – Tom Cooper letter to BAI, 24 July 2012

----- Forwarded Message -----

From: Tom Cooper <tomcooper22@yahoo.co.uk>
 To: "complaints@bai.ie" <complaints@bai.ie>
 Sent: Tuesday, 24 July 2012, 12:57
 Subject: Complaint Ref: 70/12

23, Delaford Lawn,
 Knocklyon,
 Dublin 16

July 24th 2012

Dear Jean,

Thank for your call yesterday morning (July 23rd) and for your subsequent email. I appreciate your advice. I have since taken a look at the Broadcasting Act and the relevant section stating,

39.— (1) Every broadcaster shall ensure that—

- (a) all news broadcast by the broadcaster is reported and presented in an objective and impartial manner and without any expression of the broadcaster's own views,*
- (b) 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, except that should it prove impracticable in relation to a single broadcast to apply this paragraph, two or more related broadcasts may be considered as a whole, if the broadcasts are transmitted within a reasonable period of each other.*

Section 39 (b) suggests that current affairs material "include[es] matters which [is] either of public controversy or the subject of current public debate". That being so, I believe that rules regarding impartiality, objectivity and fairness apply to the An Tost Fada programme. To demonstrate that the subject matter is an aspect of current public debate, one need only refer to Eoghan Harris's Sunday Independent columns over a number of years. More particularly, I refer you to his column of 15 April 2012, 'Canon George Salter's story breaks the long silence', which began:

"RTÉ is rightly getting stick for its rough treatment of Fr Kevin Reynolds. But it balances the books a bit tomorrow night on behalf of another clergyman, Canon George Salter of Cork. An Tost Fada (The Long Silence) tells the redemptive story of Salter's journey home to the Dunmanway farm from which his father was driven 90 years ago, in April 1922."

The following week, 22 April 2012, his column, 'How Haughey hinterland was rebuffed by O'Reilly regime', began, "Last Monday RTÉ showed An Tost Fada... It was the most important programme in which I have ever been involved."

On both occasions Mr Harris linked the subject matter of the programme to political debate. He followed by taking issue with those who disagree with his narration and scripting of An Tost Fada. I refer you to, 'Time to stop nitpicking -- say sorry and then shut up', 6 May 2012. This column criticised a letter writer, the historian Brian Murphy, again related An Tost Fada to RTÉ's treatment of Fr Reynolds on Prime Time and also mentioned the BAI. It concluded, "in the week that was in it, the week of Cardinal Brady or the BAI report on RTÉ, Salter's testimony reminds us never to stay silent when we should speak out." Mr Harris's view is that those who disagree have no valid argument and should "shut up", a view he believes the An Tost Fada programme vindicated. Perhaps that is why other views were excluded on the programme in question, contrary to the provisions of the Broadcasting Act. It is not only Eoghan Harris who believes that the An Tost Fada programme is part of an ongoing current debate. Kevin Myers believes so also. In 'Healthy societies don't dwell on identity, which is why the annual examination of true Irishness makes me yearn for winter' (Irish Independent 20 April 2012), Myers linked the programme content to his well worn opposition to the state commemorating the 1916 Rising.

In his 'Time to... shut up' column and also in 'Peace means casting a cool eye on past atrocities' (29 April 2012, in which he yet again praised his own programme), Eoghan Harris mentioned the fourteen-year-old debate on the controversial historian, the late Peter Hart. Harris observed in the 29 April column, "the field has been dominated by Peter Hart's 1998 classic: The IRA and its Enemies: Violence and Community in Cork, 1916-23. Most of what's been published consists of challenges to Hart's conclusions by academics and extreme nationalists -- whose views seem to increasingly converge".

The academics currently debating Peter Hart's treatment of sectarianism during the War of independence include Andrew Bielenberg (UCC), David Fitzpatrick (TCD), Niall Meehan (GCD), John Regan, (Dundee).

See Times Higher Education, 'Between the lines of a tale of murder and motive', Matthew Reisz(<http://www.timeshighereducation.co.uk/story.asp?storycode=419986>); 'Troubles and strife as IRA historian draws peers' fire', John Gill, (<http://www.timeshighereducation.co.uk/story.asp?storyCode=402611§ioncode=26>). See also Irish Times report (30 April 2012), 'Historian disputes sectarian motive for murder of 13 Protestants in Cork' (<http://www.irishtimes.com/newspaper/ireland/2012/0430/1224315363494.html>). See also, 'Historians clash over Protestant massacre', Justine McCarthy, Sunday Times, 13 May 2012; 'An Uncivil War in Academia', Justine McCarthy, Sunday Times magazine (Ireland) 10 June 2012. In addition, the subject has been

articulated in the past three issues of History Ireland magazine (Jan-Feb, Mar-Apr, May-Jun 2012).

Not an iota of this debate, in which Eoghan Harris has been a partisan participant for a number of years, was reflected in the An Tost Fada Programme. The partisan nature of the broadcast was revealed by an inability to broadcast factual matter that contradicted the un-factual material that was broadcast.

For all of the these reasons I believe the An Tost Fada complaint may be dealt with under the objectivity, impartiality and fairness provisions of the Broadcasting Act, as cited above. Now, as to factual programme content, the subject of your email, my belief is that large chunks of the programme were not factual (a point partially conceded by RTÉ). Therefore, I have no objection if you wish to examine the complaint in that context also, i.e under both categories, not either-or. If this point is discussed by the BAI or its servants, I would be obliged if you would bring this email to their attention.

If there is anything you wish to further discuss, please do not hesitate to call.

Yours sincerely,
Tom Cooper

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