

## **Pro Life Campaign's Official Complaint about RTÉ Investigates programme**

RTÉ  
Donnybrook  
Dublin 4

By post and email 3rd May 2024

### **Re/ Complaint under Section 12 of the Online Safety and Media Regulation Act 2022**

Dear Sir/Madam

On Monday, 15 April 2024, from 9.35pm to 10.40pm, RTÉ broadcasted an episode of RTÉ Investigates ("Ireland's Abortion Services"). It was reported by Aoife Hegarty; produced and directed by Lucy Kennedy. In our view, this programme failed to meet its statutory obligations under S. 46L (1), (b) of the Online Safety and Media Regulation Act 2022. As such, we are making a complaint under the above cited grounds about the above-named programme programme.

#### **1. Misrepresentations of interviewees**

1.1. The affiliation of Dr Jonathan Lord to the UK-based abortion provider and campaigning organisations MSI Reproductive Choice as Medical Director was not referenced or acknowledged in the programme.[1] Rather Dr Lord was described simply as a "consultant gynaecologist". The failure to disclose that Dr Lord holds a senior leadership role within a major abortion advocacy and providers' organisation in the UK amounted to a misrepresentation of Dr Lord as an impartial expert.

1.2. The affiliation of psychiatrist Veronica O'Keane as an abortion campaigner and a committee member of Doctors for Choice was not disclosed to viewers.[2] Professor O'Keane's professional credentials were the only details of her background and interest in this issue made to the viewers of the programme. This amounted to a misrepresentation of Prof O'Keane as an impartial expert.

1.3. Whilst the programme acknowledged that Dr Mark Murphy "campaigned for a Yes vote during the referendum", the programme did not acknowledge his prominence as a national spokesperson for Together for Yes in 2018. It further failed to acknowledge that he has been a consistent campaigner since then, and was involved in the three-year review – particularly in his capacity as one who reviewed the report before its public issuance.[3] His connection to Marie O'Shea was not publicly acknowledged either.

The programme purported to investigate "the realities of Ireland's current abortion services". However, it presented a one-sided narrative which failed to challenge many of the realities of abortion in Ireland which were not in keeping with an overall message aimed at further loosening the law or in otherwise adopting policies aimed at making abortion more pervasive.

#### **2. Three-Day Wait Period**

2.2 The programme's depiction of the recommendation in the Marie O'Shea report "that the three-day waiting period [between abortion appointments] be made optional" interviewed Ms O'Shea, the proponent of the proposal, but failed to provide any counterbalance on why it should not be made optional/removed outright. The Health Committee's final report on the three-year review noted, in observations made by individual members, that "in relation to the "three-day waiting period", that research on women who availed of that period and opted to bring their

pregnancies to term was not conducted or used.”[4] These concerns about the lack of research underlying the proposal to abolish the three-day waiting period were not noted in the programme.

2.3 During the programme, the host’s commentary said: “For Niamh, she says the mandatory wait period meant enduring three more anxious days before she could return to the GP for her second consultation”, and showed an interview with the woman with a ticking clock sound effect. This section of the programme failed to provide any serious balance on the issue. For instance, it did not interview or even mention the existence of any women who used the three-day wait period and felt glad it was there in order to allow them to make an informed decision to have an abortion or alternatively to bring their pregnancy to term.

2.4 The three-day wait has also been considered a “debate” within the media. For example, the Irish Times published articles in April 2023[5] (and most recently in April 2024[6], after the airing of this programme) which allowed proponents and opponents of the three-day waiting period to make their respective cases.

### **3. O’Shea Report and Three-Year Review**

3.1. Throughout the programme, Marie O’Shea was interviewed and her report was excessively focused on. However, the report has been criticised in the Oireachtas, the media, and in the Health Committee’s own report (by individual members) for research flaws or omissions, as well as for its extreme proposals which, as noted by individual members of the Health Committee, “that the recommendations entail a substantial departure from the proposals presented to the electorate before the May 2018 referendum.”[7]

3.2. Criticisms of the three-year review have also been expressed in the media and journals. For example, the Law Society Gazette carried two articles on 18 November 2022 titled ‘The Great Debate’ which encompassed: “Section 7 of the Health (Regulation of Termination of Pregnancy) Act 2018 requires the Minister for Health to carry out a review of the operation of the act “not later than three years after the commencement of this section” ... In order to gauge reaction to the current legislation from both sides of the abortion divide – and to hear their perspectives regarding the three-year review that is currently taking place – the Gazette invited Eilís Mulroy (Chief Executive Officer of the Pro Life Campaign) and Orla O’Connor (Director of the National Women’s Council) to submit their views”. [8] This points to the awareness within professional associations such as the Law Society that the three-year review is a contentious process; however, the RTÉ Investigates programme failed to provide a similar level of balance by excluding critics of the process or the eventual report from its programme.

3.3. However, these criticisms of the O’Shea report, its methodology or proposals, were not even noted in the course of the report. A fair and balanced programme should have provided an opportunity for a critic of the O’Shea report and its proposals to air these criticisms.

### **4. Leading stories**

4.1 The programme presented the stories of three women who went to the United Kingdom to have a termination due to having a pregnancy which was diagnosed with an anomaly which would not qualify for an abortion in Ireland due to the expectation the child would live more than 28 days after birth. The programme failed to provide information on these cases such as what the anomalies were or what their life expectancy was.

4.2 In addition to the lack of detail behind the stories, they were couched within leading

commentary which advocated for a more liberal abortion law. For example, following such a story, the commentary said: “But abortion laws here still contain a risk of criminal sanction if medical practitioners perform an abortion outside of Ireland’s strict 12-week rule... this Marie O’Shea says must be removed”. There was no criticism of the impact of ‘decriminalising’ abortion, which made for a one-sided argument and betrayed the position of the producers of the broadcast in sympathy with such a proposal.

## **5. Invasion of privacy**

5.1 The section of the programme which purported to show a ‘sting’ or ‘undercover’ investigation into the activities of some pro-life organisations was deeply unethical and an invasion of privacy. The part of the programme which showed footage from a voluntary retreat offered by the group Rachel’s Vineyard was depicted in a one-sidedly negative manner, with commentators referring to the activities as “voodoo” and a “cult”. This deeply unfair characterisation was bolstered by the overlaid commentary with descriptions such as “egged on vulnerable women”; there was little attempt to explain that such activities may be beneficial to women who are experiencing abortion regret and who voluntarily chose to attend this retreat.

## **6. Limited scope and lack of balance**

6.1 Despite claiming it would investigate the reality of Ireland’s abortion laws, the programme focused exclusively on highlighting issues in a one-sided manner which ultimately served to promote a call for greater abortion liberalisation. Even before the programme was aired, campaigning groups such as the National Women’s Council evidently knew the contents of the programme was in line with its agenda, as pointed to by the NWC’s X post of 10 April 2024: “A new documentary highlighting why we need urgently need improvements to abortion provision and #abortioncare in Ireland... Airing next Monday on @rte”.<sup>[9]</sup>

6.2 The programme overall failed to provide any balance to the prevailing narrative of a call for the proposals set forth in the O’Shea report, and endorsed by abortion advocacy organisations such as the NWC and the Irish Family Planning Association (IFPA). Issues related to the impact of the realities of abortion, such as the impact of telemedicine, were not even discussed let alone investigated. The HSE has said that in-person examinations, which are precluded under telemedicine, are optimal to ensure a women in a coercive or abusive situation receives support.<sup>[10]</sup> In addition, an article published in October 2022 in the Irish Examiner stated that a minor had been locked in a room and forced to ingest abortion pills, a harrowing situation enabled by the existence of the country’s loose telemedicine policy.<sup>[11]</sup> Telemedicine is the most significant change to Irish abortion policy since 2019, and was implemented in March 2020 without a single parliamentary vote or debate, despite the fact that then-Minister for Health Simon Harris promised in 2018 that abortion policy is “absolutely... not going to be done by telemedicine.”<sup>[12]</sup> The failure to examine such an issue was indicative of the lack of balance.

6.3 From the beginning of the three-year review process, it has been criticised for its reliance on research and ‘expertise’ provided by active pro-abortion campaigners. Moreover, the nomination and appointment of its chairperson, her subsequent unclear work schedule, and the eventual deeply flawed report has been subjected to considerable scrutiny. However, the programme failed to challenge any elements of the three-year review process, such as the promise made by Minister Donnelly on 8 December 2021 that the chairpersonship would be recruited for by public tender but then his subsequent appointment of Marie O’Shea through an in-house private tender in January 2022. This issue was raised in the Seanad on 2 February 2022 by Senator Rónán Mullen.<sup>[13]</sup>

6.4 The programme failed to mention let alone investigate the reasons belying the rising abortion rate. In the year of the referendum, 2018, there were 2,911 Irish abortions in England and Wales; even accounting for an estimated 1,000 abortions carried out through illegally imported abortion pills, this fails to tally with the actual increase seen since 2019. For example, indications show (from payments made to GPs) that there were claims for over 10,000 abortions last year (2023) alone.[14] This information is worthy of public disclosure and investigation, particularly as it contradicts promises made by prominent ‘Yes’ campaigners in 2018 that the abortion rate would not rise or that abortion in Ireland would be ‘rare’.

6.5 Issues related to the impact of the abortion law, such as research from University College Cork (2020) that suggests babies have been born alive, having survived the abortion procedure, but were left to die unaided[15] or evidence that the MyOptions hotline fails to provide women in unplanned pregnancies with truly non-directive counselling and instead repeatedly advised women to make a first abortion appointment even in situations where they were conflicted on if they wanted to proceed with an abortion or not.[16] Neither of these issues were included within the purview of this purportedly thorough ‘investigation’. This cannot simply be explained as an oversight and leaves the distinct impression that this programme was deliberately one-sided and intended to fulfil an agenda of abortion liberalisation and the further negative depiction of pro-life citizens, who constituted one-third of the electorate in the May 2018 referendum. RTÉ has failed to uphold its duty as a public broadcaster to represent issues (especially contentious issues) neutrally, accurately and in a balanced and fair manner.

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We ask that this complaint be considered by RTÉ at your earliest convenience. We are available to input any further information or evidence which may be required as part of the process.

Yours faithfully,

Denise Kelly  
Pro Life Campaign

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[1] “London, 5th February 2020: Marie Stopes UK, one of the UK’s leading providers of safe abortion, is delighted to welcome Dr Jonathan Lord as its new Medical Director”,  
<https://www.mschoices.org.uk/news/marie-stopes-uk-welcomes-new-medical-director/>

[2] “In a presentation on behalf of [Doctors for Choice], psychiatrist and committee member Veronica O’Keane...”,  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8939907/>

[3] “The recommendations of the report are grounded in reality. Dr. Mark Murphy, GP, and Dr. Vicky O’Dwyer, consultant obstetrician, provided opinions on the draft recommendations”,  
[https://www.oireachtas.ie/en/debates/debate/joint\\_committee\\_on\\_health/2023-05-31/2/](https://www.oireachtas.ie/en/debates/debate/joint_committee_on_health/2023-05-31/2/).

[4]  
[https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint\\_committee\\_on\\_health/reports/2023/2023-12-15\\_report-on-the-independent-review-of-the-operation-of-the-health-regulation-of-termination-of-pregnancy-act-2018\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_health/reports/2023/2023-12-15_report-on-the-independent-review-of-the-operation-of-the-health-regulation-of-termination-of-pregnancy-act-2018_en.pdf)

[5] See:  
<https://www.irishtimes.com/opinion/2023/04/12/inclusion-of-waiting-period-in-abortion-law-was-for-political-rather-than-medical-reasons/>;  
<https://www.irishtimes.com/opinion/2023/04/12/thousands-of-children-alive-in-ireland-today-thanks-to-72-hour-abortion-reflection-time/>.

[6] <https://www.irishtimes.com/opinion/2024/04/23/should-the-mandatory-three-day-wait-for-abortion-be-lifted-dr-mary-faver-and-eilis-mulroy-debate/>.

[7] [https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint\\_committee\\_on\\_health/reports/2023/2023-12-15\\_report-on-the-independent-review-of-the-operation-of-the-health-regulation-of-termination-of-pregnancy-act-2018\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_health/reports/2023/2023-12-15_report-on-the-independent-review-of-the-operation-of-the-health-regulation-of-termination-of-pregnancy-act-2018_en.pdf)

[8] <https://www.lawsociety.ie/gazette/top-stories/2022/november/the-great-debate>

[9] <https://twitter.com/NWCI/status/1777982306407301535>

[10] In-person consultations allow provision of personalised care and allow potential problems to be identified and mitigated. Meeting the woman in person increases the likelihood of the provider identifying any coercion or domestic abuse”, HSE letter in reply to parliamentary question by Carol Nolan TD, dated 3/3/22.

[11] <https://www.irishexaminer.com/news/arid-40990952.html>

[12] [https://www.oireachtas.ie/en/debates/debate/select\\_committee\\_on\\_health/2018-11-06/2/](https://www.oireachtas.ie/en/debates/debate/select_committee_on_health/2018-11-06/2/)

[13] [https://www.oireachtas.ie/en/debates/debate/seanad/2022-02-02/3/#spk\\_2](https://www.oireachtas.ie/en/debates/debate/seanad/2022-02-02/3/#spk_2)

[14] Data generated by the HSE in a parliamentary question sent to Carol Nolan TD, April 2024. No. of claims for combined termination of pregnancy procedure and aftercare in 2023 totalled 10,021.

[15] Fetal medicine specialists’ experiences of providing a new service of termination of pregnancy for fatal fetal anomaly: a qualitative study -S Power S Meaney, K O’Donoghue, The Irish Centre for Maternal and Child Health Research (INFANT), University College Cork. Published in British Journal of Obstetrics and Gynaecology (2020)

[16] <https://studentsforlife.ie/myoptions-project>