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THE PRESS OMBUDMAN
PER EMAIL

At the outset I would like to request your indulgence with the lateness of this complaint. I only found out recently that I could complain to the Press Ombudsman and after reading the rules with respect to lodging a complaint, I noticed that you are required to do so within 20 days of publication of the article.

Due to the seriousness and one sidedness of the complaint I do hope that you will however condone the lateness and investigate my complaint.

In this regard I would like to formally lodge a complaint regarding the article published in *Die Son* on 11 September 2016 and written by the journalist, Colin Hendricks ("Hendricks"). The article was placed on page 1 and 3 of the said publication and headlined "Girls kla `perv' pla hul aanlyn". Further to this billboards on the street were erected with respect to the article. The article was also published online and the following is a link to the article:

<http://www.son.co.za/Son-Op-Sondag/Nuus/Wes-Kaap/girls-kla-perv-pla-hul-aanlyn-20160911>

COMPLAINT

The complaint is based on the following:

The article -

- reported allegations and opinion as fact and advocating a cause;
- did not contain any verification;
- was misleading;
- gave no consideration to the protection of my dignity;
- violated my rights to personal information; and
- contained information that mislead as to what my profession was.

Furthermore I believe

- comment in the article was not protected by the Code of Ethics and Conduct; and
- the headline and "caption" (in fact, a pull-out from the text) were misleading and unfair.

ARTICLE

The article, written by Hendricks, only reflected one side of the story and stated that girls had complained that I had harassed them online and that I had sent photos of my “penis” to some of them. These are both strongly denied. Not only does the article only relate to one side, that side has been doctored as the messages that they had sent to me within our interactions have been removed. I do not know whether they removed them or whether Hendricks removed them, but this misrepresented the true nature of our interactions. In essence either the complainants, the journalist or both committed fraud.

Hendricks then states that I am a photographer. This is incorrect. I organised events and arranged photo-shoots. I have never acted as a photographer. At the events that I organised, I introduced myself to those participating at the events as the organiser. I then introduced the photographers and the make-up artists and the venue owner.

Hendricks then published the following photograph on the front page and page 3 of the newspaper:



The photos that were printed in Die Son were taken by the following photographers:

Photograph front page : Photographer : Dirk Deschepper
Photograph Page 3 : Photographer: Dewald Basson

Not only were the photographers not credited with the photographs but Hendricks and the publication committed a number of copyright infringements:

- No permission was obtained from the participants in the photographs to publish the picture (none of the girls in the article had anything to do with the picture) and no permission was sought from either the photographers or the participants;
- The photographers watermark from the original picture as can be seen above have been removed from the published picture in the newspaper and a caption located in its place:

Allegations, opinion presented as fact; advocating a cause

The article presented certain statements and opinions in a manner which any reasonable reader would interpret as fact. Moreover, many of the statements amounted to accusations and suppositions.

One such example is the statement that ‘Talle jong vroue is moerig vir die fotograaf Deon Fialkov’.

Hendricks did not distinguish in his story between fact and opinion, as required by the code.

No verification

Hendricks did not verify his information, neither did he report that he had done so. It was practically impossible to verify each of the complaints...” I would like to add that, if Hendricks was unable to verify his information, he should have reported that fact.

Misleading reporting

The article had stated that I had said sent a photo of my penis to a girl (name not mentioned in this line on page 3) “’n Fotograaf wat glo onder meer ‘n foto van sy penis aan ‘n meisie op Twitter gestuur”. This is incorrect and a lie. Hendricks in no way could have verified this as none was ever sent and therefore in essence lied himself.

“Manus se hy het haar ‘n foto van sy penis gestuur” is also untrue.

I argue, “This line of reporting is misleading and inaccurate. Hendricks has now given the reader the (false and misleading) impression that I sent my photo of my penis to an unknown girl and Tracey Manus – both of which is wrong and untrue.

The reportage is unethical, unfair and misleading.

Dignity

I complain that the story has “seriously infringed” my dignity and reputation, beyond the borders set by the Code of Ethics and Conduct.

I refer to the whole of Section 3.3 of the Code:

The media shall exercise care and consideration in matters involving dignity and reputation. The dignity or reputation of an individual should be overridden only if it is in the public interest and in the following circumstances:

3.3.1. The facts reported are true or substantially true; or

3.3.2. The reportage amounts to fair comment based on facts that are adequately referred to and that are true or substantially true; or

3.3.3. The reportage amounts to a fair and accurate report of court proceedings, Parliamentary proceedings or the proceedings of any quasi-judicial tribunal or forum; or

3.3.4. It was reasonable for the information to be communicated because it was prepared in accordance with acceptable principles of journalistic conduct and in the public interest.

3.3.5. The article was, or formed part of, an accurate and impartial account of a dispute to which the complainant was a party.

Violating rights to personal information

I would like to complain that the use of my picture amounted to “personal information” – which is prohibited in Section 4 of the Code and which also features in Section 1 of the Protection of Personal Information Act, 4 of 2013.

I specifically refer to the following sections of the Code in this regard:

- 4.2: “The media should take reasonable steps to ensure that the personal information under their control is protected from misuse or loss, and to prevent unauthorised access to such information” and
- 4.5: “Some personal information, such as addresses, may enable others to intrude on the privacy and safety of individuals who are the subject of news coverage.

I argue that Hendricks misused my personal information, publishing my name (both in the text and in a caption), place of work and my image (in a story that was fundamentally false and misleading).

The pictures that Hendricks had taken were published as if I was the photographer. Also he never acquired the relevant consent from the photographers who took both photos before publishing the photos, nor did he acknowledge them. In my facebook page, it clearly mentioned that ‘Deon Fialkov is the organiser and not the photographer’ yet Hendricks chose to ignore that fact.

Headline, captions, picture misleading, unfair

Section 10.1 of the Code requires headlines and captions to give a reasonable reflection of the content of the story.

Caption of the photo on Page 3 `Stil: Deon Fialkov en die sexy girl in een van sy photoshoots.'

I am not a photographer. This caption has been strategically placed and the watermarks have been removed without permission therefore the publication and the journalist amongst other things committing copyright infringement.

HENDRICKS

It would seem that the journalist is not new to complaints being laid against him for the same type of reporting previously.

What I also find disturbing in relation to this journalist is a post that I came across and can be seen at the following:

<https://www.youtube.com/watch?v=bR2RvdE4oOI>

Relief sought

I would like to ask for

- formal, written apology to me from the newspaper, co-signed by Hendricks;
- printed apology in the newspaper, again "co-signed" by the reporter; and
- written undertaking by the media company that the newspaper would adhere to the Code if it chooses to report on the matter again.

Yours faithfully

Deon Fialkov