

Heather Mills v The Sun

Clauses noted: 1, 12

Heather Mills complained to the Press Complaints Commission through her representative, David Law, that articles in the Sun headlined "Dancing on vice" (29 September 2009), "It's Mucca v Macca on ice" (2 November 2009) and "Mucca in skate hell" (9 November 2009) contained inaccurate information in breach of Clause 1 (Accuracy) of the Editors' Code of Practice. She complained also that the articles were discriminatory in breach of Clause 12 (Discrimination) of the Code.

The complaints were not upheld.

The articles reported that Heather Mills was to participate in the TV show, *Dancing on Ice*. The complainant said they contained numerous inaccurate references and descriptions. She said she was not, for example, a 'former prostitute', nor was she a 'gold-digger', nor did she have a 'porn past'; describing her as 'Mucca' was also, therefore, inaccurate.

The complainant also contended that the articles made pejorative reference to her disability, by calling her 'one-legged Mucca' and suggesting that she might 'joust' with the judges on the show (which was a clear allusion, she claimed, to a 'single poled weapon'). The complaint also complained that references to her disability were irrelevant. She argued that the Sun had an agenda to present her in a negative light, preferring to abuse her than publish details about her many achievements.

The newspaper said the complainant had received huge publicity over the years, much of it sought out by her. It was entitled to take the view that her negative characteristics outweighed any good works she may have done. It disputed that the articles under complaint were derogatory about her disability and said that her status as an amputee was relevant to articles about her participation in an ice skating competition.

As to the alleged inaccuracies, the newspaper said it was reasonable to describe as a 'gold-digger' any person who married someone considerably richer than them and benefited financially as a result of the marriage. It was also fair comment to refer to the complainant as 'Mucca' - a name that had been used in countless articles over several years - given that she had previously posed for what many people would describe as pornographic pictures. The claim that the complainant had previously worked as a prostitute had first been made by the News of the World in 2006, based on information from a number of named sources. She had not taken action against that newspaper. However, the Sun agreed to amend the online version of the article to include her denial of the allegation. It also undertook to ensure that the denial would accompany any future reference to the allegation.

The complainant said that the pictures considered by the Sun to be pornographic had been published in a German sex education manual (*'Die Freuden der Liebe'*) and could not justify the 'Mucca' tag. She also challenged the newspaper's description of her as a 'gold-digger' just because she had married a wealthy man. She said that it was clear from previous coverage that the Sun had decided to use the term after claiming - inaccurately - that she had turned down settlement offers in the divorce proceedings because she wanted more money. The complainant said the term was used as a factual description of her, not as opinion.

Adjudication

It was clear, and understandable, that the complainant objected to the tenor of the coverage of her by the newspaper. However, the Commission's role is to determine whether or not there has been a breach of the Editors' Code of Practice. In this case, it was not for the Commission to rule on whether the coverage had been fair-minded or offensive in its treatment of the complainant, but

rather - in the first instance - whether the newspaper's descriptions of her rendered the coverage inaccurate or misleading.

The articles undoubtedly used colourful and strong terms to describe the complainant: for example, "gold-digger" and "Mucca". The first of these examples represented the newspaper's opinion of the complainant, based on her marriage to a wealthy man and the financial benefits she had received as a consequence. The Code entitled the newspaper to express such an opinion, which, by its nature, was clearly comment and not a statement of fact. Its publication did not raise a breach of the Code.

The newspaper had argued justification for the use of the term 'Mucca' because of reports of the complainant's alleged past activities. The newspaper also relied on images of the complainant which appeared in *Die Freuden der Liebe*, and which the newspaper regarded as pornographic. The complainant did not agree with this assessment. However, the Commission noted that the photographs could be considered to be explicit, showing, as they did, the complainant naked and participating in, or simulating, sexual activity with a man, including contact with his genitalia. In view of the nature of the photographs - and taking account of the fact that 'pornography' covers a wide spectrum of material - the newspaper was entitled to describe them as "pornographic", notwithstanding the complainant's assertion that the book was a sex education manual.

The Commission was not persuaded that the description of the complainant as 'Mucca' raised a breach of the Code. It was a reference to reports of the complainant's alleged past activities, the fact that she had appeared in photographs which could be considered to be explicit and was a nod to the complainant's former husband's nickname, 'Macca'. The complainant was entitled to find this name mean-spirited or offensive, but the Commission considered that it would be understood by the newspaper's readers that it was not a factual description and its use, therefore, could not amount to a breach of the Code.

With regard to the complaint under Clause 12 (Discrimination), the Commission noted that the complainant herself had regularly talked about her disability in public. The fact that she was an amputee was, therefore, well-known and newspapers were likely to make reference to it. The articles currently under complaint were about the complainant's participation in an ice-skating competition, where the fact of her disability was relevant. The Commission did not consider that the use of the adjective "one-legged" (which was not pejorative) constituted discrimination in breach of the Code. As to the suggestion that the word 'joust' had been used as a means of poking fun at the complainant's disability, the Commission did not agree and the use of the word did not, therefore, raise a breach of the Code.

The remaining point of dispute related to the description of the complainant as a "former prostitute". The newspaper was seeking to rely on the fact that this claim had been made by another newspaper in 2006 without any legal challenge. Clearly, the Commission was not in a position to judge whether those earlier allegations were well-founded or not. (it had never received a complaint from the complainant about the News of the World article.) It could only consider how the information had been presented in the article now under complaint. The Commission considered that, as the Sun was unable to corroborate the claim itself, it was necessary for the newspaper to make clear that the complainant had disputed it. The newspaper had given an assurance that the complainant's denial of the claim would be included in the future and had amended the online version of the article. The Commission considered that this was a satisfactory response.

The complainant had also raised concerns about numerous past articles in the Sun, all of which were still available on the newspaper's website. She argued that the newspaper had pursued a vendetta that amounted to abuse. She said that she had not been able to keep track of every article that was published at the time, and had been advised to ignore what was being written about her.

The vilification of her by the newspaper was traumatic, and this made it difficult to respond until now. The complainant expected the newspaper to remove the articles and publish apologies to her.

The newspaper said it was concerned that the complainant had not raised concerns about any of the articles when they were first published. Several of the journalists responsible for the stories in question were no longer employed by the Sun and it was almost impossible to properly investigate the complaints given the passage of time. Nonetheless, it sought to reply to the complaints as fully as it could.

A number of specific complaints about the accuracy of the archived articles had been made:

'Lady Macca's porno past', published 5 June 2006

The complainant argued that the images for which she had posed did not show her in 'depraved pornographic clinches'.

The newspaper argued that the images were indeed pornographic.

'Lady Mucca Mocka Macca', published 31 July 2006

The complainant said it was not true that she had been offered a £30m divorce settlement by Paul McCartney. No offer was made for a year after they had agreed to divorce so there was no 'deal for a quick and painless split'. It was also incorrect that she had ever sought to retain the title Lady McCartney.

The newspaper said its reporter did not recall the source of the story. It offered to publish online a mutually agreeable statement from the complainant setting out her position.

'Liar Mucca is bang to writes', published 1 December 2006

This article contained claims by a 'handwriting expert', who had analysed a paparazzi shot of the complainant's writing. The complainant said that these claims had been misleadingly presented as fact. She also said that the article made misleading claims about what she had actually written - her reference to 'the matrimonial home' was not a reference to a property in Sussex, as alleged.

The newspaper argued that it was perfectly normal practice to analyse the hand-writing of people in the public eye. The story was not misleading. The original images which had been subject to analysis were no longer on file.

'Lady Mucca blasted by cops', published 15 March 2007

The complainant said it was untrue that she had been using the emergency 999 service. She had been given a direct number on which to contact police, following death-threats in 2006.

The newspaper said that the story appeared to have originated from an agency. It had been published by numerous newspapers. The Times piece said: "Heather Mills was criticised by a senior police officer yesterday for making a 'disproportionate' number of 999 telephone calls". The complainant's spokesman had then been quoted, apparently confirming the story: "The danger is that she will not call the police in future and something serious will happen. What is she supposed to do?". The newspaper suggested that the story was accurate.

'Mucca gets £50m', published 11 October 2007

The complainant said she had not been given £50m in the divorce settlement.

The newspaper said that the reporter responsible for the story was no longer on its staff. It would be happy to remove the article from its website if the complainant could confirm how much money she had received in the settlement.

'Mucca: I'll die like Diana', published 31 October 2007

The complainant said that she had never compared herself to Princess Diana or suggested that she was likely to 'die like her'. She had simply expressed concerns about the role played in Diana's death by paparazzi photographers.

The newspaper said that the complainant had spoken on GMTV about how the media had 'pushed her to the edge' and had then gone on to discuss others who she considered to be victims of the media, including Princess Diana. Many newspapers had reported the link she had made between herself and Diana.

'Heather rants are wrecking case', published 9 November 2007

The complainant said it was not true that her solicitors had 'fired' her as a client. She had decided to find new lawyers because she was not happy with the way in which they had been handling her case.

The newspaper said the story had come from an impeccable source. They had received no complaint from the solicitors that the article was untrue. Nonetheless, the newspaper said it would agree to run a reasonable statement at the bottom of the article setting out Ms Mills' denial.

'Mucca's 'sad' childhood', published 22 April 2008

The complainant objected to the way in which the article sought to rubbish her recollection of her unhappy childhood. She said it was misleading to present her father's denial of her claims as fact. The article also made reference to untrue allegations that she had been a prostitute.

The newspaper said that the author of the article no longer worked for the Sun and it did not have a copy of the TV programme from which material had been taken. It was entirely reasonable to publish the position of the complainant's father about the complainant's childhood. The claims about the complainant being a prostitute were also made in the TV programme. The article made clear that she denied the allegations.

Adjudication

The Commission has previously made clear that, when an article remains available on a newspaper's website, a complaint about it can be made even after the normal two month limitation period has elapsed. However, the PCC website also explains that "common sense dictates that complaints are most appropriately investigated while the circumstances remain fresh in the minds of those involved, and where supporting evidence like reporters' notes are still available. As such, any long delay will inevitably impact on the extent to which we can reach a finding on a case; as well as the possible action necessary from a publication to resolve the complaint."

These complaints, about a range of articles from the last three and a half years, illustrated the difficulty of investigating matters after a significant delay. Some of the stories had been written by journalists no longer at the newspaper; others related to material that the newspaper no longer had on file; some of the stories had been published in a range of other newspapers about which no complaints had been made.

The Commission noted the complainant's position that she had not felt able to complain about these articles until now. However, the Commission considered that the complainant could reasonably have been expected - either personally or through representatives - to make complaints about the articles more promptly. Had she done so, the Commission may have been able to deal with the complaints differently and to require the newspaper to take action which was no longer appropriate or which, as a consequence of the delay in bringing the complaint, was no longer tenable.

The Commission sought to adopt the most practical approach to dealing with these further complaints. This involved exploring what information was currently available to help it make rulings under the Code and considering what action could be achieved so long after the date of first

publication. These are the factors that the Commission will generally consider in relation to delayed complaints about archived articles.

It was worth clarifying that the remedy of a published correction and apology is not always appropriate if there has been a delay in making a complaint. The Commission has in the past expected newspapers to amend online texts where inaccuracy can be established, or append further references to the disputed points. It has also negotiated the removal of articles, where appropriate. This type of action is more likely to be proportionate when dealing with complaints about articles first published considerably outside of the PCC's time limits.

In regard to several of the articles ('Lady Macca's porno past', 'Liar Mucca is bang to writes', 'Lady Mucca blasted by cops', 'Mucca: I'll die like Diana' and 'Mucca's 'sad' childhood'), the Commission did not consider - at this remove - that there could be established any possible breaches of the Code that would require further action.

With regard to 'Lady Macca's porno past', the Commission regarded the newspaper's description of the photographs in *Die Freuden der Liebe* to be legitimate within the terms of the Code. It was clearly a matter of opinion as to whether the images were "depraved", which the newspaper was entitled to express, and the Commission did not consider that the description of them as "pornographic" was misleading or inaccurate in breach of the Code, as explained above.

The story headlined 'Liar Mucca is bang to writes' set out the opinions of a named hand-writing expert, which readers would have recognised. The newspaper was entitled to present her personal views under the Code. The original photograph showing what the complainant had written was apparently no longer available, although the published picture was still accessible on the Sun's website. This picture made plain to readers what the complainant had written. The Commission did not consider it could appropriately pursue at this stage the complaint about the accuracy of the newspaper's interpretation of her written reference to 'the matrimonial home'. It did not consider it to be a significant matter.

The next article was 'Lady Mucca blasted by cops'. A number of newspapers had reported this story, of the alleged 999 calls to police, and no complaints had been lodged at the time about any of the coverage. The Commission noted that the complainant's spokesperson had been quoted in an article in the Times, apparently confirming that concerns had been expressed about her contact with the police. It also noted that no complaint had been received from the police about the story. The Commission did not consider that it could take the matter further at this stage.

In regard to 'Mucca: I'll die like Diana', a number of newspapers had reported that the complainant had drawn parallels between the way she was treated by the media, and the treatment received by Princess Diana. It did not appear to be in dispute that she had referred to having been 'pushed to the edge' as a result of being hounded by the media and had gone on to contend that the paparazzi had been responsible for the death of Diana. Bearing in mind what the complainant was on the record as having said to GMTV, the Commission considered that the Sun's piece was a legitimate summary of the interview and did not provide a misleading or distorted view of the complainant's comments as a whole.

The article headlined 'Mucca's 'sad' childhood' described information which had been broadcast in a Channel 4 programme. The newspaper was entitled to report the views of the complainant's father and the claims of a woman who said she had worked with the complainant as a prostitute. The article made clear that the complainant denied the prostitution claim and did not share her father's recollection of her family upbringing. The Commission did not consider that the complainant had established that the newspaper had published a misleading description of the programme.

With regard to the other three articles ('Mucca gets £50m', 'Lady Mucca Mocka Macca' and 'Heather's rants wrecking case'), the Commission considered that it was appropriate for the

newspaper to take further action. In 'Mucca gets £50m', the newspaper had published claims about the divorce settlement, which the complainant had allegedly received from her former husband. The actual figure had been established since the article was first published, and the newspaper had offered (once the complainant had confirmed the correct amount) to delete the article from its website. In 'Lady Mucca Mocka Macca', the newspaper had published details of settlement offers, which it claimed had been made to the complainant by her former husband. The newspaper was not in a position to provide any corroborating evidence and so it was incumbent on it to carry the complainant's position in the online article. Finally, the article 'Heather's rants wrecking case' involved a dispute about the circumstances surrounding the end of the retainer between the complainant and her former solicitors. The newspaper again was not in a position to provide on-the-record corroboration and so had offered to run the complainant's response online.

Bearing in mind that these three articles were at least two years old, the Commission considered that these were sensible responses to the complaints. It did not agree with the complainant's representative that further action was necessary and, as a result, it did not uphold these complaints.

Adjudication issued 12/08/2010