

Wayne Rooney v The Sunday Times

Clauses noted: 1, 2

Mr Wayne Rooney complained to the Press Complaints Commission through Ian Monk Associates Ltd that an article headlined "Top footballers dodge millions in income tax: Rooney pays 2% on some earnings", published in The Sunday Times on 16 January 2011, was inaccurate and misleading in breach of Clause 1 (Accuracy) and that he had been denied an opportunity in which to reply in breach of Clause 2 (Opportunity to reply) of the Editors' Code of Practice.

The complaint was not upheld.

The front-page article claimed that "dozens of top footballers" - including the complainant - were "avoiding millions of pounds in tax" using "complex tax avoidance schemes that legally allow them to pay as little as 2% tax on some earnings". It said that the complainant had saved nearly £600,000 by taking £1.6 million in loans over two years, rather than as income.

The complainant said that the headline was inaccurate and misleading: it was not true that he paid 2% tax on any part of his earnings, something which was not possible for any individual. A separate article in the same edition of the newspaper had indicated that the loans made to the complainant from his company's profits had already been subject to corporation tax at 28%. Moreover, the loans in question were all repaid the following year: the significance of this was that, upon their repayment, the profits of the company were paid out as dividends, and therefore subject to income tax at the higher rate of 42.5%. The article did not mention that the loans had been repaid.

The newspaper did not accept that the article was inaccurate, or that it gave a misleading or distorted picture of the complainant's complex tax affairs. The article focused on a Her Majesty's Revenue and Customs investigation of the manner in which footballers employed a range of (legal) tax mitigation devices to reduce significantly some of their income tax liabilities. One of these devices was the use of personal loans from a limited company. Under current legislation, these loans were classified as a benefit in kind and incurred a rate of only 2% income tax on the total sum of the loan. The complainant had used such a strategy by structuring some of his finances through a limited company. It was this company (which had three directors, including the complainant), rather than solely the complainant himself, which paid the corporation tax.

The 2% figure in the headline could not explain the complexity of the complainant's tax affairs: any reasonable person reading the headline would understand that the arrangement was explained in the full story. Whether or not the loans were repaid was immaterial, in the newspaper's view: the complainant had had access to large sums of money which had only attracted a tax rate of 2% for the period of the loans. Nonetheless, the newspaper was willing to publish a clarification outlining that the complainant paid all his taxes at the legally required rate.

The complainant wished for any clarification to accept that the article was inaccurate when it claimed that he paid only 2% tax on some earnings. The newspaper was not prepared to agree to this.

Adjudication

Headlines are often the subject of complaints to the Commission under the terms of Clause 1 (Accuracy) of the Code, which states that newspapers must take care not to publish inaccurate, misleading or distorted information. The Commission recognises that headlines are, by their nature, reductive, attempting to summarise complex issues succinctly, and must be read along with the accompanying articles. However, it has in the past ruled that too great a disparity between the headline and the text of the article can raise a breach of the Code.

The Commission did not consider that there was such a disparity on this occasion. It was accepted that the complainant employed, legally, a complicated system by which he paid 2% tax on loans from his own company. In that context, the reference to him paying "2% on some earnings" was not, in the Commission's view, inaccurate, even if it was not the full position. The headline clearly required further explanation which the Commission considered was contained in the articles themselves. These made clear that, by this arrangement, the money, which had already been subject to corporation tax at 28%, was a "director's loan", in respect of which tax was paid, and it was likely that the loan would have to be repaid. They also made clear that the arrangement was legal.

Taking this into account, the Commission believed that readers of the coverage as a whole would not be misled as to the specific structure of the tax arrangements of the complainant. In the circumstances, the Commission ruled that Clause 1 (Accuracy) of the Code had not been breached.

However, the Commission did note that the complainant had made clear that the loans in question had been repaid, and that the requisite tax had been paid on them. It felt that readers should be made aware of this and noted that the newspaper was willing to publish a clarification, stating that it accepted the complainant's assurance that he "pays all his taxes at the full legally required rates". This was a sensible, and proportionate, response to the complaint, and there were no further issues to pursue under Clause 2 of the Code.

The complaint was not upheld.

Adjudication issued 17/08/2011