

***Ms Dannii Minogue v Daily Record***

Clauses noted: 3

Ms Dannii Minogue complained to the Press Complaints Commission through Hackford Jones PR that an article headlined "X Factor Dannii is pregnant", published in the Daily Record on 9 January 2010, intruded into her private life in breach of Clause 3 (Privacy) of the Editors' Code of Practice.

The complaint was upheld.

The article reported that Ms Minogue was expecting a baby with her boyfriend, Kris Smith. The complainant's representative said that she had not yet had her twelve-week scan at the time of publication, and the newspaper had known this. Nonetheless, it had gone ahead to publish the story which represented a gross intrusion into her private life.

The newspaper said that it was aware of the general 'first scan' rule in regard to pregnancy. However, the news of the pregnancy had been in the public domain before publication, appearing on the Faded Youth blog and on the Sydney Morning Herald website the previous day. In those circumstances, the news had already ceased to be private. The newspaper argued that information is either "in" or "not in" the public domain; it cannot be partially in the public domain. Nonetheless, the newspaper was happy to publish an apology to the complainant, as a gesture of goodwill.

*Adjudication*

The Commission's case law on this matter is absolutely clear: "as a matter of common sense newspapers and magazines should not reveal news of an individual's pregnancy without consent before the 12-week scan, unless the information is known to such an extent that it would be perverse not to refer to it". This is because this scan can reveal complications relating to the health of the baby and the viability of the pregnancy.

For the newspaper to justify publication on this occasion, it would have to argue that the references in the Sydney Morning Herald and online - which were, in any event, speculative - made it "perverse" for it not to have referred to the pregnancy. This was manifestly an untenable argument and was rejected by the Commission. The Code specifically requires the Commission to have regard to the "extent" to which the information has previously appeared. This was no more than common sense: otherwise, any reference online would represent automatic justification for a newspaper to publish otherwise intrusive material.

On this occasion, the Commission considered that the article constituted a regrettable lapse in editorial judgement at the newspaper. It had no hesitation in upholding the complaint.

Relevant rulings

Riding v The Independent, 2006  
Church v The Sun, 2007

Adjudication issued 28/01/2010