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Monitoring the media since 1993

Mr E. Linnington
Press Ombudsman
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By email: pressombudsman@ombudsman.org.za

29 March 2007

Dear Mr Linnington

**RE: Complaint against The Daily Voice story, "Cape's Child Porn Ring,"
published on 9 March 2007.**

The Media Monitoring Project (MMP) hereby submits a complaint about a story run in the Daily Voice, on the 9th March 2007, pages 1, 6, 7, entitled 'Cape's Child Porn Ring'. The MMP submits that the story and images constitute clear violations of the Press Code of Professional Practice, South African Law, the South African Constitution as well as commonly accepted ethical standard of journalism.

It should be noted that the theme of the story, focused on a child pornography ring is a critical one and as such the media should report it. The MMP has on numerous occasions highlighted instances where media have reported on cases of child abuse but also successfully respected the law, the rights and dignity of the children. MMP is therefore not objecting to the importance and necessity of reporting such a story. The MMP has also publicly commended tabloid newspapers, such as the Daily Sun for example for some of their reporting. MMP's concerns are therefore not based on the tabloid nature of the Daily Voice nor are they based on the subject matter. Rather MMP's concerns relate directly to the offensive and unprofessional manner in which the story which led to the rights of the children involved being violated.

The MMP submits that the article concerned has violated the following clauses in the of the press code:

List of all clauses violated by the above-mentioned article:

- 1.1. The press shall be obliged to report news truthfully, accurately and fairly;
- 1.2. News shall be presented in context and in a balanced manner, without an intentional or negligent departure from the facts whether by:
 - 1.2.1. distortion, exaggeration or misrepresentation;
 - 1.2.2. material omissions; or
 - 1.2.3. summarisation.
- 1.7. Reports, photographs or sketches relative to matters involving indecency or obscenity shall be presented with due sensitivity towards the prevailing moral climate.

- 1.8. The identity of rape victims and victims of sexual violence shall not be published without the consent of the victim.
- 1.9. News obtained by dishonest or unfair means, or the publication of which would involve a breach of confidence, should not be published unless there is a public interest.
- 1.10. In both news and comment, the press shall exercise exceptional care and consideration in matters involving the private lives and concerns of individuals, bearing in mind that any right to privacy may be overridden by a legitimate public interest.
- 1.11. A newspaper has wide discretion in matters of taste but this does not justify lapses of taste so repugnant as to bring the freedom of the press into disrepute or be extremely offensive to the public.

Identifying children who have been/are being abused is against the law. Section 154 3 of the Criminal Procedure Act states, "no information which may reveal the identity of a witness who is under 18 years of age, may be published." As the focus of the story is on child pornography, and as it highlights that the girls involved were drugged and raped it is clear that, at minimum, the acts involved constitute sexual abuse, statutory rape, as well as direct offences of the Film and Publications Act. While the names of the girls are not provided in the story the identities of several of the young girls involved are clearly revealed through the images printed. Black strips are placed across the eyes of the young girls, as well as a small statement saying, "Daily Voice Censored," in what appears to be an attempt not to identify the girls. Given the accompanying descriptions and additional detail provided in the story, much of which serves to further sexualise the girls, and given that the black strips fail to protect the identities of the girls it is clear that the "attempt" at protecting the girls identities from being revealed is disingenuous. The attempt is in fact so poorly conceived and executed that it makes the violations that the article is guilty of even more egregious.

It also needs to be considered that it is not just one or two images that fail to protect the identity of the girls involved but a series of images. On page 7 an entire page devoted to (presumably) scenes from the child porn movies is presented to readers. Again various different girls are identifiable from these images.

The Press Code of Professional Practice, states that '1.8. The identity of rape victims and victims of sexual violence shall not be published without the consent of the victim.' In the case of children it should be noted that even if there is informed consent from them and their parents they are not in a position to give such consent. (Criminal Procedure Act Section 154). It is clear that the Code of Conduct and the Law are different. However the intent of both the Law and the Code of Conduct are clearly to protect the rights to dignity and privacy of those who have been raped. In any event no evidence is provided in the story that informed consent had been obtained. As such the story is in clear violation of this clause.

In addition to the Code of conduct clause, is the South African Constitutional provision, 28.2 of the Bill of Rights which states 'A child's best interests are of paramount importance in every matter concerning the child.' While it may be in the best interests of children to prevent child abuse and expose it where possible, the question arises as to how it could be construed to be in the best interests of the children shown in the story concerned? Revealing the identities of the children is also in conflict with Article 28.1d, which states that children are 'to be protected from maltreatment, neglect, abuse or degradation' (SA Bill of Rights). This includes not identifying children who have been victims of crime, as children are doubly vulnerable to secondary abuse by school peers and other members of the community.

Not only are the children identifiable in the images, but they would not have been able to consent to the use of their pictures in the newspaper. The use of these images is also clearly unnecessary as the story with pictures in which the children were not identified would have had the same effect. An outline of images which violate the Press Code of Conduct follows. It is to be noted that in addition to identifying the girls many of the images and captions further sexualise the girls.

On page 1, a large full-colour picture appears next to the heading. The caption states that this girl is 17, "FILMED: This teen, 17, is raped on DVD". As this girl is 17 she should not have been identified, yet the small black rectangle over her eyes means she would be easily identified by anyone who knows her. Additional unique features of the girl are clearly visible making her identification even easier, the girl has distinguishing moles on her face and back. There is also no evidence of informed consent. The same picture appears on page 7, this time with the girl's breast clearly visible. The caption in this instance reads, "STEAMY: Girls get down and dirty on film'. Other pictures on the front page show a girl face with the caption, 'RAPED: Teen girl in sodomy scene'. It is possible that this girl is not recognisable from this picture, although a slightly bigger version of this image appears on page 7. A third girl is shown on the page. The caption below is 'SEX ON VIDEO: This girl is only 15'. Again, her features are clearly visible and she can again be identified. She is unambiguously underage and should not have been identified.

Page 7 of the article has a series of images that would perhaps be more commonly found on the 'back page' of a newspaper, where images of women in seductive poses, pose in little or no clothes. The difference is that these are not women, but children and are not willing participants in the activities. As has been stated, due to their age, even if they had consented to the activities, showing them in such a manner that revealed their identity is illegal.

The story also violates clauses:

1.1. The press shall be obliged to report news truthfully, accurately and fairly;

1.2. News shall be presented in context and in a balanced manner, without an intentional or negligent departure from the facts whether by:

1.2.1. distortion, exaggeration or misrepresentation;

- 1.2.2. material omissions; or
- 1.2.3. summarisation.

1.7. Reports, photographs or sketches relative to matters involving indecency or obscenity shall be presented with due sensitivity towards the prevailing moral climate.

In addition to revealing the identities of the children involved the story also fails to adhere to the basic ethics of journalism outlined in the clauses above. It is guilty of these contraventions as a result of the sexualisation of the young girls involved in the story. By sexualising the young girls instead of offering a potentially powerful news story, it presents as a series of images and text designed to titillate, which clearly violates reporting tenets of balance, fairness and accuracy. Page 7 has 14 pictures of naked girls or girls in their underwear in different poses. Pictures run in film strips down the right hand of the page, the caption of these pictures is 'SHOCKING: The actors perform anal and oral sex'. This series of pictures shows the faces of 5 girls (one the same as the front page), with the same small inadequate rectangles to block out their eyes. In total on the page, the breasts of 8 of the girls are shown. Showing the breasts of these girls, and acknowledging that breasts are commonly recognised as having sexual symbolism, the images clearly serve to sexualise the girls and titillate the reader. effect of sexual stimulation.

Clearly this present as an issue of bias towards sexualisation and titillation as it seems difficult to understand why so many images of naked girls breasts would be needed to highlight what is obvious to any reader. In addition to this the story further sexualises the girls in the text with terms such as: "A three hour pumping marathon," "Eighteen girls are ravaged from front and behind by forty men," "one teenage girl, 15, who willingly takes part," "When these guys are done n@@ing them, they wash the sperm from the girls' faces, breasts and vaginas." Each of these highlight together with other details provided serve to undermine any news angle the story had. In addition to these many of the captions fulfil a similar function, for example, "STEAMY: Girls get down and dirty on film," "SHOCKING: The actors perform anal and oral sex". It is clear even from the story that the girls involved are not actors and not only is this an exaggeration and misrepresentation it is also grossly inaccurate and offensive to the girls involved to suggest there was consent in being sexually violated.

In addition, children are shown or stated to be in sexual positions, engaging in oral and anal sex. This contributes further to the sexualisation of these children. The bottom right picture, captioned 'LOCAL: The pornographic movies are recorded in the Cape Flats homes and on a Paarl farm' clearly shows oral sex being performed. Another image on this page bears the caption 'UNDERAGE: This young girl is only 14 years old and many of the others are also still in their early teens'. The image below this caption shows a girl who is clearly identifiable, this image is captioned 'DRUGGED UP: Source says girls' drinks are spiked with tik and heroin'. The net effect of this page appears to be to tantalise and glamorise child abuse and, it may be argued, thereby perpetuate it.

A fundamental material omission in this story is the lack of balance in sources. It seems to be a mystery that only the girls were interviewed. No officials, child protection agencies, psychologists, police officers, academics, community members, caregivers, parents, or indeed anybody else who may have made a valuable contribution to the story were accessed. The only attempt made to highlight the issue of child abuse is through a headline, Save our children and the use of the Childline logo. It should be noted that Childline did not give permission, nor were they consulted on the use of their logo for this story.

The only people accessed in the story are some of the girls who allegedly featured in the films. Under normal circumstances, accessing children as sources in a story about them would be encouraged. In the present instance however, the potential harm and impact being interviewed may have on them appears not to have been considered. In addition to this there is the issue that some of these girls may have learned that they feature in the films only when they were interviewed for the story. "The Daily Voice spoke to a few of the young girls who took part in the sex films. Some were not even aware that they were in them." While this in itself may not be a direct contravention of the code of conduct it must surely be considered to be unethical and a form of misconduct. As there is no evidence of informed consent, the MMP requests that in addition to making a ruling on this complaint that the Press Ombudsman also established whether the Daily Voice took steps to ensure counselling and appropriate post traumatic measures were taken following their interview and subsequent publication of the story.

While it should be noted that as a tabloid different levels of what is acceptable and not acceptable in terms of form and content apply, in the present instance the sexualisation and titillation of girls in the story is surely offensive to all audiences, except perhaps paedophiles and child pornographers. Accordingly the story violates clause 1.7.

The story also violates the following clauses:

1.10. In both news and comment, the press shall exercise exceptional care and consideration in matters involving the private lives and concerns of individuals, bearing in mind that any right to privacy may be overridden by a legitimate public interest.

1.11. A newspaper has wide discretion in matters of taste but this does not justify lapses of taste so repugnant as to bring the freedom of the press into disrepute or be extremely offensive to the public.

The story is also in conflict with the Press Code of Professional Practice, clauses 1.10 and 1.11 as noted above. As argued earlier, although child pornography is an area of public interest, the children's rights were abused by the Daily Voice publishing these pictures. Given Section 28(2) of the South African Constitution as well as the additional protection afforded to children nationally and internationally the Daily Voice has a duty to exercise even greater care when reporting on children. In revealing the identity of the children and by clearly acting outside of the best interests of the children the Daily Voice failed to



exercise exceptional care and consideration of their private lives. This is also the case in that they are not prominent people whose profession means that their private lives are of interest. Again, the article could have been published without the use of these images.

MMP further submits that, in addition to the gross abuse of children's rights, that the story adds fuel to an already tense situation where some potential threats to media freedom have been made, for example in the Film and Publications Amendment Bill. One of the key aims of the Film and Publications Amendment Bill is to address child pornography by proposing pre-publication censorship. It should also be considered that there has been a growing number of cases brought against media as a means of limiting media freedom. Considering this article seems to show stills from a pornographic film with children, it will serve to encourage and justify the passing of the Film and Publication's Amendment Bill which, in its current form, will severely curtail media freedom in South Africa. In addition to this, given the sexualisation of the children involved, that they are identified, that some did not know until they were interviewed that they had allegedly participated in the films, given the gratuitous use of images, the MMP submits that the story, constitutes a lapse "of taste so repugnant as to bring the freedom of the press into disrepute" and is also, "extremely offensive to the public."

Given the sexualised nature of the story, one of the unintended consequences of providing information about the films may be to encourage others to seek to purchase the films. Page 6 of the article, gives the reader details of where this pornography can be obtained (the Cape Town harbour). This information is given to readers along with the titles of the films and the costs. While readers would presumably have to obtain the sellers trust before they are able to buy these films, these details are given alongside what appears to be selected scenes from the films. It may be argued that it would have been better to leave out some of the details and deliver all details only to the police, rather than risk expanding the market of potential buyers of child pornography.

The MMP feels that this coverage represents a challenge to human rights standards, the reputation of journalists in South Africa, and to media freedom and the MMP therefore opposes it in the strongest terms.

I look forward to your response.

Yours sincerely

William Bird
For and on behalf of the Media Monitoring Project