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ONCE YOU TWEET, THERE'S NO MORE PRIVACY

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When you use Twitter, your comments are public and can be reported by newspapers without your consent. This is what the UK Press Complaints Commission decided in the cases Ms Sarah Baskerville v Daily Mail and Ms Sarah Baskerville v The Independent on Sunday on 8 February 2011.

The Commission is an independent body which administers the system of self-regulation for the press. It was established after the public outcry provoked by the disregard of the basic ethics of journalism by several publications in the 1980s. Instead of a legislative intervention, it was agreed that national and regional editors would write a formal Code of Practice. The latter was adopted in January 1991. Editors' voluntary adhesion is thus the basis for the Commission's mandate.

An article published in the Daily Mail on 13 November 2010 featured some tweets by Ms Sarah Baskerville, a civil servant at the Department for Transport. The title was "Oh please, stop this twit from Tweeting, someone". One cannot but smile at the pun, where "twit" (idiot) hints at "tweet" (the name under which comments on Twitter are known). The next day, the Independent on Sunday followed up with an equally sarcastic piece.

Ms Baskerville had used the micro-blogging website to air several

comments on her job, which the newspaper (perhaps righteously) saw as indecorous. More specifically, she had tweeted about a “mental” leader of a professional course she was attending; about a “wine-induced hangover” she was confronted with at work; and about her tiredness and will to go home during office hours. Pretty embarrassing statements, especially when made by a member of Her Majesty’s Home Civil Service.

Furthermore, several comments were politically characterised. Ms Baskerville had in fact criticised a Conservative MP’s complaint on governmental expenditure; repeated a Labour MP’s intervention against government “spin”; and disclosed she knew the wife of the Speaker of the House of Commons, Sally Bercow.

The complainant considered that the publication infringed Clause 3 of the Editors’ Code of Practice because it interfered with her privacy. The article was also alleged to be misleading and thus in breach of Clause 1 (Accuracy).

Ms Baskerville opined that the comments she made on Twitter were supposed to be private. She expected that only her followers on the website would read her messages. Everybody else would have needed to search specifically for her, a rather remote possibility.

Moreover, she drew the Commission’s attention on the fact that her Twitter account (as well as her blog) displayed disclaimers. They made it clear that the views expressed were exclusively her own and did not represent her employer’s.

Secondly, as regards the lack of accuracy, she pointed to the issue that her tweets were taken out of their context. As a result, readers were somewhat deceived in the appreciation of her character. Furthermore, it seemed unreasonable that her comments had been selected amongst the numerous public sector workers who make use of Twitter.

On the other hand, the Daily Mail replied that Ms Baskerville’s privacy had not been violated. It argued that her tweets were publicly available and she had freely decided to comment on a host of personal traits, including her job. She had not restrained access to her posts.

In addition, the newspaper meant to participate in a public debate on the

use of social media. References to Ms Baskerville's posts were an example of misbehaviour, which potentially disregarded the civil service code in relation to the impartiality of its workers.

In the past, the Commission had already dealt with cases of magazines' publishing material from social networking sites. In the present rulings, it focused on the peculiarities of Twitter. It took into account the possibility of limiting the access to one's messages only to its followers, something the complainant had chosen not to do. Secondly, the Commission considered the widely-used "re-tweet" feature. It allows to post the author's tweets again, without his/her permission or control. Consequently, the general public could view what Ms Baskerville tweeted.

The Commission then turned to the characteristics of the information. The article concerned the complainant's professional life. It did so in the context of a debate on civil servants' use of social media. The public interest lay in the potential occurrence of interferences with workers' professional duties.

Although the publication had caused distress to Ms Baskerville, the Commission esteemed that the article did not unreasonably interfere with her privacy. Therefore, Clause 3 of the Editors' Code of Practice was not infringed.

Furthermore, nor was Clause 1 (Accuracy) violated. The article included only those posts by the complainant which were relevant to the journalist's point. Even though other, innocuous messages had not been published, those reported were actually written by Ms Baskerville. Thus, the publication was neither misleading nor distorted.

All in all, the adjudication can be regarded as striking a fair balance between journalists' freedom of and their duties to respect privacy and accuracy. Although the decision comes from a self-regulatory body for the press in the UK, it deals with an issue which has much wider implications. Its reasoning might be followed by commissions and courts elsewhere. Yet, new questions arise: Does the ruling apply to all social networking sites? How much self-restraint should one practise in these situations? The near future will probably provide further guidance on these topics.