

***A married couple v FHM***

Clauses noted: 3, 6

A married couple complained to the Press Complaints Commission through solicitors that a photograph of their daughter, featured in the April 2007 edition of FHM, had been published without consent and intruded into her privacy in breach of Clause 3 (Privacy) and Clause 6 (Children) of the Code of Practice.

The complaint was upheld.

A topless photograph of the complainants' daughter had been published in a gallery of mobile phone snapshots provided by the magazine's readers. The complainants' solicitors said that the photograph was taken in 2005 when their daughter was 14. The publication of the photograph – which had been published without any form of consent – represented a serious intrusion into the girl's privacy and had had a significant effect on her emotionally and at school.

The magazine said that it received approximately 1,200 photographs for publication each week from or on behalf of women posing topless or in lingerie. It was extremely surprised to learn that the photograph was taken when the complainants' daughter was 14 years old as she certainly appeared to be older. It had no reason to believe that the image was taken without her consent. The magazine had been informed that the complainants' daughter was in a cohabiting relationship with the person who submitted the photograph and, in those circumstances, no further enquiries about the image were made. Nonetheless, the magazine – which had introduced new measures to ensure that the situation would not occur again – confirmed that the image would not be republished or syndicated and offered to write a private letter of apology to the complainant.

*Adjudication*

The publication of a topless photograph of the complainants' daughter without consent represented a serious intrusion into her private life. This would have been the case regardless of how old she was, but the Commission was particularly concerned about the impact on the girl in light of her youth. The magazine had clearly not taken any sort of adequate care to establish the provenance of the photograph and whether it was right to publish it. It should have been much quicker to recognise the damage that publication would have caused the girl, and offered to publish an apology or take other steps to remedy the situation to the satisfaction of the complainant. Failure to respond in a swift and proportionate manner aggravated what was a significant breach of the Code.

Adjudication issued 15/08/2007