

[BE] Public Broadcaster Found in Breach of Ethical Requirements for Undercover Journalism

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As part of the television programme “Volt”, a report covering the “prescription behaviour” of physicians was transmitted on 22 October 2008 by the Flemish public broadcaster (VRT). For the report, four physicians had been videotaped on a hidden camera during a consultation. The physicians’ faces had been blurred, but their voices had not been changed. The report was also accessible via the website of the television programme. Subsequent to the transmission, the physicians lodged a complaint with the *Vlaamse Raad voor de Journalistiek* (Flemish Council for Journalism Ethics).

First of all, the Council for Journalism Ethics found the coverage to be a form of undercover journalism: not only was the journalist present during the recorded consultations, but he also actively posed as a patient and fabricated a story with the objective of obtaining a prescription for antidepressants. Consequently, the conditions under which this type of journalism is allowed, according to the Ethical Directive on Undercover Journalism, need to be fulfilled. In brief, these conditions are fourfold: first, the information to be obtained should reflect a great societal importance. Second, it should not be possible to obtain the information via conventional journalistic methods. Third, the risks related to this method should be in proportion to the results pursued. And fourth, the decision to use the undercover method and the realisation of the report should only occur after deliberation with and under the responsibility of the editors in chief. In casu, the Council only addressed the second condition and decided that the VRT had not provided sufficient arguments proving that it was plausible that the information about the “prescription behaviour” of physicians could not be obtained by means of classical journalistic methods.

In addition to this, the Council judged that the privacy of the physicians had been violated. The VRT had taken some precautions in order to prevent the physicians from being recognised, but given the particular bond of trust between physicians and their patients, these were insufficient. For example, the physicians’ voices could have been altered. Failing such measures, the physicians could undoubtedly be recognised by their patients.

Third, the Council deemed the report to have diverged from what actually took place during the consultations. In the report it had not been made clear that the journalist in question had told the physicians that he had already undergone a course of treatment, which he had interrupted. By not mentioning this alleged medical history, the impression could be given that the prescription had been granted almost immediately.

Finally, the physicians argued that they had been denied a right of reply. In this regard, the Council considered the purpose of the report to be the illustration of a general phenomenon, rather than the personal accusation of the four physicians in question. Therefore, it was not necessary that every individual physician be afforded a right of reply. It was sufficient that the spokeswoman of the association of physicians, during a debate following the transmission of the report, was given a chance to react.

The VRT agreed to remove the report from the website and from its archive, in order to prevent the images from being re-transmitted in the future.

Beslissing van de Raad voor de Journalistiek over de klacht van mevrouw Marijke Vanden Berghen, de heren Stefaan Backx, Edwin Coeck, Karel De Vos, Serge Morren, Philippe Rummens en de Geneeskundige Kring Dodonaeus vzw tegen de VRT

<http://www.rvdj.be/sites/default/files/pdf/beslissing200912.pdf>

Flemish Council for Journalism Ethics, Backx and others v NV VRT, 10 September 2009

Richtlijn over undercoverjournalistiek

http://www.rvdj.be/sites/default/files/pdf/richtlijn_undercoverjournalistiek.pdf

Ethical Directive on Undercover Journalism

