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January 24, 2000

Eric Effron, Editor
Brill's Content
521 Fifth Avenue, 11th Floor
New York, New York 10175

RE: "Skepticism Is A Virtue": "[It] Makes the World ACCOUNTABLE"

Dear Mr. Effron:

I was stunned by your 4-sentence January 18th letter – so much so that when I picked it up from CJA's postbox on Friday, January 21st, I changed my plans so as to be able to immediately call your office.

I stated to your assistant, Gernell Welcher, that I would look forward to speaking with you directly about your letter and requested that you clarify its second and third sentences by a further letter.

While I am gratified that the second sentence of your letter begins by stating that *Brill's Content* is "indeed interested" – presumably referring to the story proposals presented by CJA's July 8, 1998 letter -- I am utterly puzzled by what you mean by claiming that *Brill's Content* "in fact ha[s] written about the role of ombudsman and the *New York Times* lack of one". Conspicuously, you provide NO specificity as to when and in what way *Brill's Content* has written on either of these topics, neither of which reflect the breadth of CJA's actual proposals.

CJA did NOT simply propose that *Brill's Content* write about "the role of ombudsman". We all know what "the role of ombudsman" is because Bill Kovach very visibly fulfils that role by his column. Rather, our July 8, 1998 proposal was that *Brill's Content* develop stories about "how the concept of news ombudsman has fared in the 3[3] years since it was 'ressurrect[ed] by A.H. Raskin of *The New York Times* and Ben Bagdikian of *The Washington Post*". Surely, the concept has not been a static one and a widely-varied media -- of which only a handful use news

ombudsmen -- can be presumed to have had widely varied experiences using it, adapting it, abandoning it -- or never trying it at all. Where has *Brill's Content* ever done such a story -- or a story about other structural mechanisms designed to foster accountability, such as news councils? Indeed, even as to the presumably interesting history of the ombudsman concept -- to which Mr. Kovach devoted but a precious few paragraphs in his initial column in *Content's* premier issue (8/98) -- Mr. Kovach got it wrong. He even acknowledged this at the very end of his second column (9/98). Unfortunately, the net effect of his correction, limited to two-sentences, was to create confusion as to whether or not A.H. Raskin and Ben Bagdikian had resurrected the news ombudsman concept or whether these men simply share the honor with Norman E. Isaacs of the *Louisville Courier-Journal*. So much for *Content's* coverage of the history and development of the valuable news ombudsman concept -- and the extent of its use by media. As to news councils, I am not aware of any mention whatever.

As to your claim that *Brill's Content* has written about *The Times'* "lack" of an ombudsman, I do not recall *Content* ever directly identifying that *The Times* has no news ombudsman. I believe the closest it has come is by Mr. Kovach's initial column, which stated that *The Times* was "unimpressed" with the ombudsman concept -- from which could be inferred that it did not have one. However, even if *Brill's Content* has passingly mentioned that *The Times* does not have a news ombudsman, that is not a story about WHY it has no news ombudsman. This is what CJA's July 8, 1998 letter proposed -- along with an examination as to whether *The Times'* rejection of ombudsmen and news councils has influenced other media to reject such mechanisms for advancing media accountability. Where has *Brill's Content* ever written about this? And where has *Brill's Content* done an expose of "the adequacy and efficacy of *The Times'* handling of complaints, in the absence of an ombudsman" --where the complaints at issue involve "time sensitive and electorally-significant news stories of official misconduct by government leaders and those occupying positions of power and influence" which *The Times* has wilfully suppressed?

As to your third sentence, "we are not planning to use your materials", what is *Brill's Content* then planning to do with them? Discard them? If you bothered to examine those materials -- something that Ms. Welcher was not able to say that you had done -- then you know that these materials -- four fully-documented complaints presented to Mr. Sulzberger -- are "pure gold". They completely rebut Mr. Sulzberger's self-serving claim as to WHY *The Times* has no news ombudsman -- which he publicly made at a May 8, 1997 forum at the 92nd Street Y, moderated by Charlie Rose, in response to my question on the subject. This, in addition to demonstrating Mr. Sulzberger's utter dishonesty when it comes to addressing

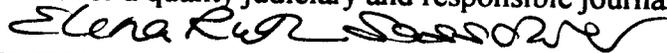
serious and substantial complaints about *The Times'* handling of serious and substantial complaints – a fact highlighted by CJA's July 8, 1998 letter (at pp. 3-4).

Although *Brill's Content* is the splashiest and most boastful of the media's watchdogs, it is *not* the only watchdog. As I told Ms. Welcher when I first spoke with her on January 6th, if *Brill's Content* does not recognize the damning significance of the materials which have been sitting in a box its front closet for the past year and a half, CJA wants them back so that we can pass them on to other watchdog journals and journalists. Hopefully, they will not only pursue the dynamite story proposals presented by CJA's July 8, 1998 letter, but the further story of why they were rejected by *Brill's Content*.

Brill's Content recognizes that conflicts of interest affect the way stories are reported – or not reported. In keeping with the policy of disclosure -- recognized by Mr. Kovach's column in the current issue (2/00) -- I ask you to disclose whether you or others at *Brill's Content* have been compromised by conflicts of interest, including by personal and professional relationships with Mr. Sulzberger, Mr. Lelyveld, or other *Times* higher-ups – who, to date, have been essentially unscathed, and, in Mr. Lelyveld's case, even lauded by *Brill's Content* (11/99)¹. They, of course, would have to be interviewed for any story about WHY *The Times* has no news ombudsman – a decision made at the top.

Since *Brill's Content* has apparently stopped referring to itself as "THE INDEPENDENT VOICE OF THE INFORMATION AGE" – and has substituted the motto, "SKEPTICISM IS A VIRTUE" – I trust you will be receptive to CJA's skepticism, as reflected by these questions.

Yours for a quality judiciary and responsible journalism,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc. (CJA)

¹ In placing Mr. Lelyveld first on its "Influence List", *Brill's Content* states that Mr. Lelyveld "has placed his stamp on everything" at *The Times*. This must include his stamp of approval that legitimate complaints should be ignored by lower editors – since he ignored CJA's complaints to him of their misconduct. This is detailed in CJA's February 12, 1998 complaint to Mr. Sulzberger (at pp. 2-3, 9, 11) about Mr. Lelyveld's misconduct – a copy of which was provided to Mr. Lelyveld. The complaints which Mr. Lelyveld saw fit to ignore are Exhibits "K-1" and "L-1" to CJA's February 12, 1998 complaint. These present a stark contrast to *Content's* favorable write-up of Mr. Lelyveld – because they show that while he may be willing to have *The Times* cover public corruption stories in far off Mexico, he allows it to totally suppress significant public corruption stories on its very doorstep, involving the corruption of the judicial appointive process by New York's Governor and the New York State Senate, among others.