

2024 Independent Reviewer's report

An independent review of the ASA Council's rulings enables complainants and advertisers to question whether those decisions were fair and reasonable in substance or rationale.

The tests I apply are those that a court would apply in the process of judicial review; namely, was the ruling irrational or indefensible?

2024 saw the fewest number of review cases altogether, certainly in my 15 years as the Independent Reviewer and possibly since the inception of the review process. I do not know the reasons for this, but I suspect it is partly due to the ASA's progressively more selective investigation process and partly due to the rising quality of rulings, leaving less scope for advertisers and complainants to find flaws in them.

In this year's report, I will comment on two ads, one non-broadcast and one broadcast.

The first was an ad by the Sky Mining Company Ltd for its Skydiamond product. There was a press ad, an Instagram ad and a website. The press ad featured a photo of a large diamond in a blue sky. There was a landscape of trees and a single wind turbine. The headline said, "Say hello to the world's first and only diamond made entirely from the sky". Smaller text stated, "We make diamonds using four natural ingredients, the sun, the wind, rain and something we have too much of, atmospheric carbon. In doing so, our technology turns a negative into a positive. Now that we can mine the sky, we never need to mine the earth again."

The ad also contained references to "the world's rarest diamonds". It seemed to me that this was a risky thing to say, and the Ruling said that "rarity in this context would be most associated by consumers with a finite natural occurring resource which could not be produced by humans, rather than something which was manufactured". I told the advertiser that that observation seemed common sense to me and that the Ruling was right to say that the ad was likely to mislead in this respect and others because it was ambiguous. That seemed to me both a reasonable and defensible conclusion. In writing to the advertiser, I said I thought they had a good product and would only have to make modest changes to comply.

The other case concerned advertising by Wild Cosmetics. The Council's ruling found that the depiction of a cancer survivor talking about prioritising her health in relation to an antiperspirant was likely to be viewed as an implied claim that was directly linked to the common misconception that such traditional products could be harmful. In the advertiser's review request, they supplied information that suggested that such traditional products were indeed harmful, although they intended to show how good their own product was for the skin. I could not find the Council's ruling either irrational or indefensible. I told the advertiser that I did not think they were being prevented from working with cancer survivors in their advertising but that they had to be careful and subtle in what they did.

Sir Hayden Phillips, GCB DL
Independent Reviewer of ASA Council Rulings



Review Cases 2024-2023

	Non-broadcast		Broadcast	
	2024	2023	2024	2023
Total cases received of which:	10	26	8	7
Ineligible/withdrawn	5	5	3	1
In progress	0	0	0	0
Not referred to Council	2	16	5	4
Referred to Council of which:	3	5	0	2
Unchanged	1	1	0	0
Decision reversed	0	0	0	0
Wording changed	1	0	0	0
Re-opened investigation	1	4	0	2
In progress	0	0	0	0