

2025 Independent Reviewer's report

This report is published at a moment of deep sadness following the death of Sir Hayden Phillips, who served with distinction as the ASA's Independent Reviewer for 15 years. Sir Hayden brought exceptional intellectual rigour, independence and fairness to the role, and his contribution to the Independent Review process was profound. His work earned the respect of complainants, advertisers and colleagues alike, and his legacy continues to shape the standards and integrity of the process he oversaw for so long.

The Independent Review process enables complainants and advertisers to question whether there were substantial flaws in the process or rationale of ASA Council decisions.

Following Sir Hayden's retirement, and ahead of the appointment of Sarah Munby, I was asked to undertake the role of Interim Independent Reviewer during the latter part of 2025. It has been both a privilege and a responsibility to carry out this role during a period of transition, and to uphold the principles that Sir Hayden exemplified throughout his tenure.

The summer of 2025 saw changes with Sir Hayden Phillips, after 15 years in the role of Independent Reviewer, beginning his well-earned retirement. I was fortunate enough to take over on an interim basis and have enjoyed a range of interesting and thought-provoking cases.

The tests applied by the Independent Reviewer are those that a court would apply in the process of judicial review; namely, whether the substance of a ruling was irrational or indefensible. I am also able to consider procedural flaws that affect the fairness of an outcome, alongside additional information that could not reasonably have been provided during the investigation process.

2025 saw a further drop in the number of review cases overall. Last year, Sir Hayden indicated that this could be 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. Certainly, I have been consistently impressed by the detailed consideration cases receive during the investigation process.

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

Telegraph Media Group Ltd

Complainants often feel strongly that the decisions reached by the ASA Council are incorrect and challenge an outcome with which they passionately disagree. This was certainly the case in the review request concerning a ruling on an ad published by the Telegraph Media Group Ltd.

The complainant described the upset, disgust and serious offence that she felt upon seeing the poster ad, which presented large text on a white background that stated: "Should athletes born as men be muscling in on women's sport?" She considered the decision not to progress the investigation to be flawed and was certainly not alone in making a complaint.

However, the purpose of the Independent Review process is not for me to replace the judgement of the twelve members of the ASA Council with my own, or that of another. Instead, I must assess whether the ASA Council considered the complaint comprehensively and reached a rational decision that is not substantially flawed.

It seemed to me that the ASA Council had grappled with the key issue at the heart of the complaint, acknowledging that this ad would indeed have caused serious offence, particularly by the use of the phrase “muscling in”, which had potential negative connotations. It also noted the ‘highly sensitive public debate’ that was taking place at the time that the ad aired, when the UK Supreme Court reached its judgment regarding the legal definition of ‘sex’ in the Equality Act 2010.

However, it concluded that it had to balance these concerns against the requirements of Article 10 of the European Court of Human Rights 1950, which enshrine the right to freedom of expression, including the ‘freedom to hold opinions and to receive and impart information and ideas without interference by public authority....’

There would be those who felt that too much weight had been given to a general right to freedom of expression, and insufficient regard to those who might be offended, upset and, in the complainant’s view, even potentially harmed by such advertisements. Nevertheless, after careful consideration, it seemed to me that the ASA Council’s decision not to investigate further was reasonable.

Zoe Ltd

However, there were cases where I did consider that a case should be reopened to correct a flaw in the rationale of a ruling.

This was the case with a Zoe Ltd ad published in 2024 for its food supplement Daily 30+ “Daily30+ is a plant-based wholefood supplement...[poo emoji] Contains chicory inulin”. Below, further text stated, “This is a supplement revolution. No ultra-processed pills, no shakes, just real food. Steven Barlett [sic]”.

A complainant, a professor of nutrition and food science, challenged whether the claim “This is a supplement revolution. No ultra-processed pills, no shakes, just real food” misleadingly implied that the product did not contain any ultra-processed ingredients.

The ASA Council had originally upheld the complaint on the basis that the average consumer would consider the claim “No ultra-processed pills” to be misleading if they understood the degree to which chicory root inulin underwent processing.

It was my view that the ruling was substantially flawed as there were difficulties with the description of average consumer understanding and the ruling did not properly explain how the consumer would be *materially* misled by the ad. Following reinvestigation, a revised ruling maintained the upheld decision with a more detailed assessment of all the claims in the ad and a clearer explanation of the expectations they would have engendered in a significant minority of consumers.

These two cases illustrate the range of issues presented to the ASA, its Council and the Independent Reviewer. It is a fascinating and intellectually challenging role, which I am sure Sarah Munby will relish when she takes over the post this spring. It has been a pleasure to work with the advertisers and complainants who contacted me, and the ASA executive and Council during 2025.

Rachel Childs
Interim Independent Reviewer

Review Cases 2025-2024

Non-broadcast

Broadcast

	2025	2024	2025	2024
Total cases received of which:	14	10	2	8
Ineligible/withdrawn	6	5	0	3
In progress	0	0	0	0
Not referred to Council	5	2	2	5
Referred to Council of which:	3	3	0	0
Unchanged	0	0	0	0
Decision reversed	0	0	0	0
Wording changed	1	0	0	0
Re-opened investigation	0	3	0	0
In progress	2	0	0	0