

**COMPLAINT ADJUDICATION**

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**Institute of Economic Affairs  
and  
DeSmog**

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**Clause 1 Accuracy**

**Complaint Dismissed**

**No breach of Clause**

**Before IMPRESS Regulatory Committee A**

**Andrea Wills, Iain Christie, Pam Vick, Rachel Matthews and Walter Merricks  
(Chair)**

**20 July 2021**

## **1. Summary of Complaint**

- 1.1. The Complainant, the Institute of Economic Affairs (IEA), is a directly affected party (“the Complainant”) seeking to ensure the accuracy of published information.
- 1.2. The Respondent is DeSmog UK Ltd, a news website that publishes news about the environment and energy debate in Britain, that has been regulated by IMPRESS since 21 February 2018.
- 1.3. The complaint concerns the accuracy of an article that first appeared on DeSmog on 27 November 2020, with the headline, ‘Meet The Anti-Regulation Groups Influencing Post-Brexit Trade Policy’.
- 1.4. The complaint is assessed against the IMPRESS Standards Code, the relevant clauses are:

*Clause 1.1 Publishers must take all reasonable steps to ensure accuracy.*

*Clause 1.2 Publishers must correct any significant inaccuracy with due prominence, which should normally be equal prominence, at the earliest opportunity.*

*Clause 1.4 Whilst free to be partisan, publishers must not misrepresent or distort the facts.*

## **2. Background**

- 2.1. The article concerns the appointment of allegedly ‘prominent individuals from anti-regulation thinktanks’ to ‘government advisory boards guiding the future of UK post-Brexit trade policy’. Furthermore, it reports that four groups, ‘associated with the 55 Tufton Street network of free-market, pro-Brexit groups have been named as advisors since April 2019’.

- 2.2. The article goes on to claim that many of the groups have a ‘history of rejecting mainstream climate science’ and are pushing to remove welfare standards in UK farming. The article goes on to quote Transparency International, ‘When it comes to environmental and climate issues, there cannot be any secrecy. Rolling back environmental regulations is not reflecting the views of the majority but a sign of the undue influence of a few’.
- 2.3. The article features a section on four organisations: Initiative for Free Trade (IFT), Institute of Economic Affairs (IEA), The Adam Smith Institute and Centre for Policy Studies, and manufacturing equipment company JCB. Various claims are made about each organisation/body throughout.
- 2.4. The relevant section of the article concerning IEA states that it has a ‘notable presence on the Department for International Trade’s (DIT) advisory board’. The article goes on to state various appointments made in July 2020. It reports that the DIT appointed Shanker Singham, an IEA Trade Fellow, and Sir Lockwood Smith, an IEA advisor, to the Trade and Agriculture Commission. Moreover, it reports that three months later, the DIT appointed the thinktank’s Director-General, Mark Littlewood, as an expert to its Strategic Trade Advisory Group alongside two other representatives of groups in the 55 Tufton Street network.
- 2.5. The article goes on to describe the IEA as ‘one of the UK’s most influential pro-deregulation thinktanks’ and claims that the IEA published a report in September 2018 ‘which called on the UK to drop “restrictive” regulations including environmental protections’, and that the report was forced to be withdrawn and reissued for ‘breaching Charity Commission guidelines’. The article states that ‘the little that is known about the IEA’s funding sources, however, raises concerns about which interests Littlewood represents’. The article further claims that ‘the IEA Director-General was embroiled in a “cash-for-access” scandal during an undercover investigation by Greenpeace’s investigative unit Unearthed in 2018 where a reporter posing as a US agribusiness lobbyist was offered “intimate” access to UK ministers in return for funding an IEA report. The group denies any wrongdoing’.
- 2.6. Finally, the article reports that ‘a statement on the IEA’s website responding to claims that it has promoted climate science denial says that to “frame the debate as ‘settled’” and climate change as a crisis is “a political view, not science”, and that ‘the IEA was contacted for comments about these points and ultimately didn’t provide answers’.

### 3. The Complaint

3.1. The Complainant contacted DeSmog on 21 December 2020 and made a complaint on the grounds of accuracy. The Publisher subsequently agreed to include a clarification, that it published in an updated article on 23 December 2020 as follows:

*This article was updated on 23/12/2020 to include comments provided to DeSmog by the Institute of Economic Affairs after publication. The article has also been updated to clarify that the IEA does disclose some of its funders on its website; that official complaints following Greenpeace's 2018 investigation were not upheld; that the Charity Commission later withdrew its warning to the IEA over its Plan A+ report, while maintaining that the IEA had breached charity law; and that the IEA accepts the science behind the greenhouse effect.*

3.2. The section on the IEA was also amended to include further information about the Plan A+ report, the Charity Commission's decision to withdraw its warning and close the compliance case. The clarification states:

*In a comment provided to DeSmog after publication of this story, the IEA said it considered the commission's temporary prohibition of the report a "breach of the Regulator's Code and misapplication of charity law". It also emphasised it was an educational charity and dismissed claims it campaigned with other organisations for a "hard" Brexit as a "bizarre conspiracy theory". It previously told the BBC that meetings that took place between the group's ahead of the referendum had not been used as a forum for political campaigning and had been misrepresented.'*

3.3. Amendments were also made regarding the IEA's funding:

*The IEA's funding sources are opaque, with campaigners arguing a lack of transparency means the public does not know whose interests the organisation represents. The IEA discloses some, but not all, of its donors on its website, arguing that some donors wish to remain private.*

3.4. Further amendments were also made regarding the IEA's stance on climate change:

*A statement on the IEA's website responding to claims that it has promoted climate science denial says that it does not dispute the greenhouse effect,*

*but that “to frame the debate as ‘settled’ and the certain outcome as a ‘climate crisis’ or ‘climate emergency’ is a political view, not science.”*

- 3.5. The Complainant was not satisfied with the clarification offered. The Publisher rejected all further complaints, as it did not consider that the article breached the IMPRESS Standards Code. A full copy of correspondence between the parties was provided to the Regulatory Committee.
- 3.6. The Complainant subsequently made a complaint to IMPRESS, and after seeking clarification of the basis for the complaint, IMPRESS confirmed the substance of the complaint as follows, a full copy of which was provided to the Committee.
- 3.7. The Complainant does not consider that the Publisher took all reasonable steps to ensure accuracy. It says subsequent to being contacted by the Publisher (who asked a series of questions), it offered to have a Zoom call with the Publisher to interview the Director General, Mr Mark Littlewood, to ask any questions and ensure accuracy; the Complainant says that offer was rejected by the Publisher. The Complainant argues that this does not amount to taking all reasonable steps to ensure accuracy.
- 3.8. Furthermore, the Complainant considers that the claim that the IEA campaigned for a ‘hard’ exit from the EU was inaccurate and does not consider that the Publisher took all reasonable steps to ensure the accuracy of this claim. The Complainant says that it is not a campaigning organisation rather that it is an educational charity, and that this ‘bizarre conspiracy theory arising from an employment dispute’ was addressed in an article on the BBC in 2018. The Complainant considers that the Publisher should have taken further steps to ensure the accuracy of this claim.
- 3.9. The Complainant considers that the Publisher misrepresented the IEA’s response to the request for comment in the article. The Complainant argues that the Publisher did not make it clear, in their original article or correction, that the IEA had offered the Publisher an interview with Mr Littlewood prior to publication. The Complainant considers that the Publisher should have made it clear in a readers correction that a Zoom call was offered to the Publisher as an opportunity to ask any questions it had to ensure the accuracy of the original text. Furthermore, the Complainant considers that the correction used implies that the Complainant only responded to the Publisher after publication.

3.10. The Complainant further considers that the article misrepresented the circumstances surrounding the publication of an IEA report on 24 September 2018 and the subsequent actions taken by the Charity Commission regarding the report. The article stated that the Charity Commission considered the report breached its guidelines before later withdrawing its warning and closing the case. However, the article went on to claim that the report 'crossed the line'. The Complainant considers that the withdrawal of the warning, on 5 February 2019, and closing of the compliance case, 27 June 2019, 'supersede[s] any other comments made after the fact'. In the Complainant's view, the Charity Commission's decision to temporarily prohibit the publication of Plan A+ was a breach of its regulatory Code and a misapplication of charity law. This led to the republication of the Complainant's work, and the regulatory sanction applied by the Charity Commission being fully withdrawn. The Complainant claims that it has contacted the Charity Commission and has confirmation that the Publisher last contacted the Charity Commission for comment in 2018. The Complainant wished to emphasise that by not contacting the Charity Commission after 2018, the Publisher made no effort to check the regulator's view on either issuing the warning in February 2019, or any of the subsequent events. Therefore, the Complainant considers that the article has misled readers.

3.11. Finally, the Complainant does not consider that the 'various amendments' made to the article satisfactorily corrected the 'factual errors' in the original article. The Complainant considers the scale of 'mistakes' in the original article, which it considers was an attempt to 'sully' the organisation and those that work for it, amounted to a significant inaccuracy that required a correction to be published, 'more prominently than the endnotes'. Furthermore, the Complainant does not consider the amendments were made at the earliest opportunity, saying that the inaccuracies were available on its publication 'for over two months' before corrective action was taken.

#### **4. Response of Publication**

4.1. IMPRESS invited the Publisher to provide additional information in response to the Complainant. The Publisher's response is summarised below, a full copy of which was provided to the Committee.

4.2. Regarding, Clause 1.1, the Publisher says that the Complainant was presented with three opportunities to respond, across three days prior to publication, and that this amounted to ample opportunity for the Complainant

to respond; therefore, it had taken all reasonable steps to ensure the accuracy of its claims. The Publisher, having conducted an editorial review at the time of the complaint then made a number of changes to the existing text of the published article; it updated the article to include some of the response provided by the Complainant since publication.

- 4.3. The Publisher says the Complainant was first made aware of its intention to publish the article on 25 November 2020, at 2pm, when DeSmog reporter, Rachel Sherrington, emailed the IEA's Annabel Denham and (separately and immediately after) IEA Director General Mark Littlewood; the email clearly outlines the statements the Publisher intended to make about the IEA.
- 4.4. The Publisher says that the email correspondence shows the Complainant's representatives declined three opportunities to respond to these statements across three days in advance of publication. Regarding the Complainant's claim that the Publisher turned down the opportunity for an interview and so did not take all reasonable steps to ensure the accuracy of the article, the Publisher notes that the email reply dated Thursday 26th November 2020 at 2:27pm from the Complainant to the Publisher first offering this interview states: "From our side, we would probably put the full interview up on our YouTube channel" and that "these are important topics, and we would like to do our bit to get them to the widest possible audience" – the Publisher considers that this implies their exchange would become public. The Publisher considers that this does not amount to invitation to respond to questions, but a public debate. As the Complainant is the subject of the Publisher's journalistic enquiries, this does not require the Publisher to take to a public forum to defend its questions. Therefore, the Publisher declined the invitation to this public debate and gave the Complainant another opportunity to respond (Thursday 26th November 2020 at 5:03pm). The Complainant declined this and again offered a Zoom call with Mr Littlewood, without retracting the suggestion that it would "probably" put the interview on YouTube. The Publisher then offered a third opportunity for the Complainant to respond in writing (see email on Friday 27th November 2020 at 2:26pm).
- 4.5. Finally, the publication Editor, Mat Hope, had a phone conversation with IMPRESS CEO Ed Procter in advance of publication, after the Complainant's offer of a recorded public debate, for guidance as to whether the Publisher had met regulatory requirements to reasonably provide the Complainant with the opportunity to respond. The Publisher says that Procter confirmed it had met such requirements. See below at 5.2 for further explanation.

- 4.6. Regarding the steps taken to ensure the accuracy of the claim that the Complainant campaigned for a 'hard' exit from the EU, the Publisher notes that the Complainant is regularly referred to in the media as having been in favour of a "hard Brexit" including by Reuters, the Guardian, City AM and others (Appendix 5). The Publisher says that this view is evidenced in the article itself, through reference to the Plan A+ report and Mr Sanni's allegations that have been widely reported (and which use the same language), which the Complainant was alerted to. It is, therefore, the Publisher's (and many other experts') opinion that the Complainant is a 'pro-Hard Brexit' organisation.
- 4.7. Regarding the steps taken to ensure the accuracy of the claim that the IEA is a campaigning organisation, the Publisher says that the article specifically states that the IEA has been accused of campaigning by a whistle-blower, and that the Complainant was made aware of this claim before publication. The Publisher is of the view that the Complainant had ample opportunity to go on the record to disagree with this characterisation of its activities in advance of publication, an invitation it did not take up.
- 4.8. Nonetheless, following comments the Complainant provided to the Publisher in writing after publication, on 23 December 2020, the article was updated to include the IEA's statement that it "dismissed claims it campaigned with other organisations for a 'hard' Brexit as a 'bizarre conspiracy theory'". This update was made within 2 days of the Complainant raising the issue with the Publisher (which the Complainant did not do until over three weeks after the article was published).
- 4.9. Regarding Clause 1.4, the Publisher does not consider that it misrepresented or distorted the facts. It considers that the story correctly reports that the IEA had to withdraw a report due to Charity Commission intervention (which has been widely reported), that the report was then reissued, and that the Charity Commission withdrew its warning and closed the compliance case. The Publisher considers that is an accurate reporting of the events. Further, the Publisher notes that it updated the story on 23 December 2020, with the IEA's interpretation of these events when the IEA provided a response on 21 December 2020, having been made aware that this description of events would be included in its reporting on 26 November 2020.
- 4.10. The Publisher notes that the Complainant does not appear to complain about the accuracy of the statement by the Charity Commission source: that the publication of the IEA's original report had breached charity law, but rather that it was unfair to use it since the Charity Commission had closed the

case. The Publisher considers that the quote itself is not inaccurate: the IEA had committed a breach, which it had been required to rectify, leading to it issuing a revised report, precipitating the closure of the case. The Publisher considers that this sequence of events is accurately set out in the article, and that the publication of the comment by the Charity Commission source is therefore justified.

- 4.11. The Publisher considers that the date that it last contacted the Charity Commission is irrelevant, as a) the story accurately describes events widely reported in the public domain, b) the Charity Commission investigation is not a significant feature of the story, and c) the Complainant had ample opportunity to present its version of events in advance of publication (which it declined to do).
- 4.12. Regarding Clause 1.2, the Publisher does not consider that there are any factual errors in the article that require correction; further it denies that it attempted to sully the Complainant by publishing the article.
- 4.13. The Publisher disagrees with the Complainant's view that it should have made clear in the article that a Zoom call was offered to the Publisher as an opportunity to ask any questions it had; it does not consider that the IEA's offer should be classified as an 'interview' due to the IEA's explicit intention to "probably" publish the interview on a public platform as set out in the Complainant's correspondence. Rather, the Publisher considers that the offer should be classified as an offer for a public debate, not the offer of an interview in response to its clearly outlined statements. As such, it does not consider that such a correction to this effect is needed.
- 4.14. The Publisher considered that it corrected the original article at the earliest opportunity, as it received the IEA's complaint on 21 December 2020, over three weeks after publication; once it had received details of the complaint, the article was rapidly amended (within two days of the complaint being received). The Publisher considers an update in the endnotes, where it always puts minor updates, was sufficient, as the amendments were largely providing the IEA an opportunity to respond rather than correcting any factual errors.

## 5. Compliance

- 5.1. DeSmog complied with the requirements of the IMPRESS Regulatory Scheme (Paragraph 3.2.) by acknowledging the complaint within seven

calendar days, issuing a final decision letter within 21 calendar days, and by informing the Complainant of its right to refer the complaint to IMPRESS.

5.2. The Committee noted the Publisher's reference to Standards Advice offered by IMPRESS CEO, Ed Procter, on 27 November 2020. A file note was made of the telephone conversation between Mat Hope and Ed Procter. Ed Procter explained that the Guidance on the IMPRESS Standards Code at part 1.21 sets out that an opportunity to respond is one of the considerations relevant to whether all reasonable steps to ensure accuracy have been taken and further, that publishers may want to keep a contemporaneous note to keep an audit trail of all reasonable steps taken to ensure accuracy. Further, that particular care should be taken to seek a response when reporting on an issue which may damage a person's reputation. However, it is not for the respondent to 'dictate' the terms by which they respond. Standards Advice does not amount to pre-publication clearance or assurance, and all publishers are advised that guidance is non-binding and will not impact on any subsequent Committee's decision should the matter arise in a complaint.

## **6. Analysis and Findings**

6.1. The Committee considered whether the Publisher had taken all reasonable steps to ensure accuracy. The Committee noted that the Publisher had contacted the Complainant three days before publishing the story, had contacted an organisation representative directly, within reasonable business hours, and had sought written responses from the Complainant to their questions. The Committee did not consider that it was reasonable for the Publisher to have to attend a public interview format, as proposed by the Complainant, in order to discharge its obligations under Clause 1.1. The Committee further noted that when the Complainant had responded to the story in the form of a complaint on 21 December 2021, the Publisher promptly (within two days) updated the story to include the Complainant's reply, to provide fuller context and clarification to the claims published. The Committee therefore decided that there was no breach of Clause 1.1.

6.2. The Committee did not consider that any of the complained about statements, in the original or amended version of the story, amounted to significant inaccuracies which required correction.

6.3. Firstly, the Publisher was entitled to express a view on the Complainant's position on Brexit; the Committee noted that other media outlets had also expressed that view.

- 6.4. Secondly, the ordinary reasonable reader would understand from the statement, “The IEA was contacted for comments about these points and ultimately didn’t provide answers” that the Publisher had sought comment from the IEA, that there had been some exchange between the Publisher and the IEA, whereby the IEA did not provide comment based on the Publisher’s enquiries; therefore, this statement was not inaccurate and did not misrepresent or distort the facts. The Publisher was not required by the Code to go further and explain more about the exchange leading to the IEA not providing comment, such as the offer of the Zoom call.
- 6.5. Thirdly, the Committee did not consider that the Publisher misrepresented or distorted the facts, requiring correction, in its reporting on the circumstances surrounding the publication of an IEA report and the Charity Commission’s actions. The Guidance to the IMPRESS Standards Code states that the Code does not create an absolute duty to publish only incontrovertibly true facts, rather Publishers must take reasonable steps as necessary to verify the truth of the information presented. The Committee noted that the Publisher had relied on a press release published by the Charity Commission as the basis of its claims; it was reasonable in that instance for the Publisher to rely on the veracity of information published by a public authority, without taking further steps to ensure accuracy of the information therein.
- 6.6. Finally, the Committee was of the view that the clarification and amendment offered by the Publisher and published within two days of the Complainant offering its response in the form of a complaint on 21 December 2021, and which also included an endnote explaining the amendment, appropriately clarified the points raised by the Complainant. Therefore, there was no breach of Clause 1.2.
- 6.7. The Committee found that there was no breach of Clause 1.