

Response to the ASA Recommendations

General Issues

1. “The ASA noted there was a large amount of data and numerous case studies on homeopathic treatments that dated back hundreds of years and understood that there was significant support for the use of homeopathy in the treatment of chronic illnesses.” (Assessment 1) This clearly indicates that claims for homeopathic treatment are not “new” or “breakthrough” claims.
2. The fact that homeopathic treatment has been included in the NHS since its inception confirms the established nature of claims for homeopathic treatment, and it also indicates that claims for homeopathic treatment have not been significantly controversial for most of the last 60 years.
3. The current claims that homeopathic treatment is ineffective are themselves controversial and are part of a campaign started in 2006. In response to the original complaint 11, H:MC21 presented examples of how the arguments and evidence used to attack homeopathy are unsubstantiated and scientifically unreliable.
4. The ASA’s requirements for evidence, however, continue to appear to be based on the assumption that the claims for the effectiveness of homeopathy are new claims. The ASA has presented no evidence to justify this position.
5. H:MC21 notes that the ASA has also decided to base some of its assessments on the conclusions of the House of Commons Science and Technology Committee *Evidence Check 2: Homeopathy*, on the grounds that it is “the most appropriate, recent, and independent review of evidence for homeopathy to date” (Letter to H:MC21, 21/3/11, para. 19). However, we have already pointed out that this report was rejected by the government and has been heavily criticised for its inconsistencies and its manipulation of the evidence in order to reach a conclusion critical of homeopathy.
6. In the context of these criticisms, and given that the conclusions of the *Evidence Check* are vehemently opposed to homeopathy, H:MC21 considers it essential that the ASA demonstrate that the preparation of this report was impeccable in terms of objectivity and independence. If this cannot be shown to be the case, then the ASA would appear to be basing decisions on a biased source. In these circumstances, use of this report implies that the ASA is undertaking this formal investigation from a position of prejudice, rather than “on the basis of the available scientific knowledge” (CAP Code 12.1).
7. H:MC21 is also concerned about the nature of the changes in the complaints and the justifications for recommendations as this investigatory process continues. In at least two cases the ASA has significantly changed its opinion about how readers would interpret statements made in H:MC21’s advertisement. Such changes indicate that the ASA’s opinion is insufficiently rigorous and objective to form a basis of any claims that H:MC21’s advertisement is misleading.
8. The ASA’s letter of 21 March 2011
 - 8.1. H:MC21 is still unable to find any definitions of “product” or “marketer” in the CAP Code, Help Notes or Online Advice, nor any clarity about the meaning of other terms previously queried, since they are not used in these documents.
 - 8.2. H:MC21 notes the ASA’s comments that it relies on “CAP literature” in deciding what constitutes “available scientific knowledge” and that this is based on the paradigm of

evidence based medicine. H:MC21 has not stated that this is the wrong paradigm for examining evidence for homeopathy, but that it is an empirical rather than a scientific paradigm, and so is capable of producing scientifically invalid conclusions if scientifically invalid parameters are used. In addition, not only is reliance solely on RCT evidence not acceptable within this paradigm, but RCT evidence can be invalidated by evidence from clinical practice.

- 8.3. H:MC21 notes that the ASA will be requiring confirmation from the complainants as to their disinterested status, and presumes that no recommendations will be put to the ASA Council until these confirmations have been received. H:MC21 understands that there is no process for checking the veracity of these confirmations, nor any process of dealing with complainants who might subsequently be found to have lied.
- 8.4. H:MC21 notes the ASA's distinction between what is said and how it is said. It would be helpful if criticisms by the ASA of way H:MC21 has expressed facts could be accompanied by examples of how those facts could be expressed without leading to the ASA's interpretations.

Additional Evidence Supplied

Dean p126.pdf

Dean p128.pdf

Samir p2.pdf

ToT References 5.webarchive

ToT References 6.webarchive

ToT References.webarchive

Trick p1.pdf

Trick p2.pdf

Trick p23.pdf

Trick p96.pdf

Trick p100.pdf

Trick p107.pdf

Trick p140.pdf

Trick p147.pdf

Trick p148.pdf

Trick p186.pdf

Trick p196.pdf

Trick p255.pdf

Trick p265.pdf

Trick p267.pdf

Trick p287.pdf

Responses

9. Response 1

9.1. This response is still inaccurate and incomplete.

9.1.1. It does not make it clear that the evidence presented in support of H:MC21's statements about EBM and the theoretical basis of homeopathy is largely drawn from orthodox medical texts. [Complying with the CAP *Help Note on Substantiation for Health, Beauty and Slimming Claims 2.2*]

9.1.2. It does not refer to homeostasis or include reference to the evidence for this in both the rebound effect and treatment using similars.

9.1.3. It states that H:MC21 “believed that the hypothesis of similarity was theoretically and demonstrably valid and was the basis of homeopathy” when H:MC21 actually provided a reasoned argument for this position in comparison with a hypothesis of treatment by contradictories. No beliefs were offered as a basis for this position.

9.1.4. It does not include our statement of the fact that EBM is an empirical paradigm used because there is no scientific theory of health and disease within orthodox medicine.

9.1.5. It does not state the types of evidence discussed by H:MC21 or the relevant issues affecting the validity of these different types of evidence.

9.1.6. It makes no mention of the “placebo effect” argument used against homeopathy and H:MC21's outline of the basic problems with this argument.

9.1.7. It makes no mention of the fact that homeopathy is practised legally in this country and has been practised in the NHS since its inception.

9.2. In the light of the fact that the new Assessment 1 challenges the scientific rationale for homeopathy, it is essential that our response be presented completely and accurately.

9.3. **In the light of the fact that Assessment 1 has introduced new arguments which are not scientifically valid, H:MC21 insists that these must either be removed or else that proper justification is provided and that H:MC21 is given adequate opportunity to prepare a response providing further evidence relevant to these arguments.**

10. Response 2

10.1. We note that the ASA has acknowledged that H:MC21 provided evidence of the Bristol study and several other studies supporting that one.

11. Response 3

11.1. The response fails to mention that the evidence about RCTs was also supplied by the Complementary Medicine Research Group, University of York.

11.2. H:MC21 did not claim that RCTs were unreliable because some are positive and some negative. H:MC21 pointed out that the unreliability of RCTs is a generally recognised problem which is why the EBM paradigm requires that this evidence must be taken together with evidence from clinical practice.

11.3. H:MC21 also explained that RCTs can be particularly unreliable when used to test homeopathic treatment, if a trial does not comply with the theoretical framework of homeopathy. In such a case, the trial can fail to test a genuine homeopathic treatment, and in the worst cases it will simply test an irrelevant and inactive treatment against a placebo.

11.4. In this context, an RCT of homeopathic treatment which is of good quality in terms of pharmacological testing standards and definitely positive must have complied with the

theoretical framework of homeopathy, and such trials represent very reliable evidence of the efficacy of homeopathic treatment.

- 11.5. Conversely an RCT which is of good quality in terms of pharmacological testing standards may be inconclusive or negative because it has failed to comply with the theoretical framework of homeopathy. As a result inconclusive or negative trials are unreliable evidence of the inefficacy of homeopathic treatment.
- 11.6. At the same time an RCT of a *specific potentised medicine* which is of good quality in terms of pharmacological testing standards and which yields a definitely negative result is reliable evidence that the medicine is inefficacious for the condition treated.
- 11.7. On these grounds positive trials can produce reliable information about the efficacy of homeopathic treatment and negative trials can produce reliable information about the inefficacy of specific potentised medicines, but inconclusive trials do not provide reliable information and may indicate weakness in the design of the trial as a test of homeopathic treatment.
- 11.8. For this reason only positive and negative trials tend to represent reliable information, and so H:MC21 referred only to these in the advertisement.

12. Response 4

- 12.1. As it stands, the response could be misunderstood to imply that only part of the population in the high risks areas were given the homeopathic preparation to protect against the disease. The evidence makes it clear that “The entire population over 1 year of age from the provinces of Las Tunas (LT), Holguín (HG) and Granma (GR) in eastern region of Cuba, independent of their physical, psychological or social status was considered as risk group and target population.” [Bracho p. 158] The population in the intervention region was just over 2.4 million, and over 92% of the population was treated. [Bracho p.161]
- 12.2. In the light of Assessment 4, it should be noted that the effect of the homeopathic treatment was determined by comparison with previously forecasted rates of infection, by comparison with the infection rates for over 8 million people in the rest of Cuba over the following year and more, by comparison with the historic incidence of infection, and by comparison with the effects of increased rainfall in the treated and untreated areas.
 - 12.2.1. The intervention region experienced infection rates significantly below the forecasted rates and outside the 95% confidence interval for the forecast. All those areas of Cuba in which the homeopathic treatment was not used experienced increases in the infection rates consistent with the forecasted rates. [Bracho p2. 161-162]
 - 12.2.2. The intervention region experienced significantly lower infection rates than the rest of Cuba for over a year following the treatment, despite previously being the area most affected. Per 10,000 people, in the intervention region the rate fell from 16.7 to 2.7, whereas in the rest of Cuba it rose from 3.5 to 4.3. [Bracho p. 163]
 - 12.2.3. The intervention region experienced infection rates significantly below the historic median in the end-of-year periods of 2007 and 2008, even though infection rates normally rose significantly in this end-of-year period and continued to exhibit this pattern in the rest of Cuba. [Bracho pp. 161-162]
 - 12.2.4. The significant link between the incidence of infection and rainfall was broken in the intervention region but not in the untreated area. [Bracho p. 164]
- 12.3. In the light of the proposal in Assessment 4 that other factors may have caused this remarkable decrease in infection rates (such as education), it should be noted that “other issues including economic, accessibility, availability, adverse reactions and timing should

be considered for the appropriate design of prevention strategies” [Bracho p. 165], and that “When endemic areas are affected by climatic events producing heavy rainfall and flooding, the risk of Leptospirosis infection is dramatically boosted and challenges all prevention options”. [Bracho pp. 157-158] However, “in 2008, both regions [the intervention region and the rest of Cuba] were affected by hurricanes and similar levels of rains were recorded but no increase in Leptospirosis incidence was observed in IR [intervention region]”. [Bracho p. 165] In other words, this intervention strategy broke with experience of all other preventative options.

12.4. In the light of the proposal in Assessment 4 that other factors may have caused this remarkable decrease in infection rates, it should be noted that “The history of Leptospirosis incidence in Cuba is recorded by an efficient National Surveillance Program (NSP) for zoonotic diseases of the Ministry of Public Health of Cuba (MPHC) established in 1980.” [Bracho p. 158] In other words, the evidence comes from a national health service with experience based on monitoring and treating an endemic disease in a population of over 11 million people since 1980.

13. Response 6

13.1. H:MC21 has cited a statement published by a leading and respected medical journal. It is not normal academic practice to further research a sufficiently authoritative source such as this. The readership of the *New Statesman* could legitimately be expected to be aware of this, since the journal is targeted at well-educated sections of the population.

14. Response 7

14.1. The response is currently still inaccurate. The increase mentioned by H:MC21 was an increase *to* 1% of the demand in the population for homeopathic treatment (that is, to 0.1% of NHS spending as a whole), not *of* 1% of NHS spending on homeopathic treatment. On the basis of evidence supplied this would lead to 27 times more patients seeing improvements in their symptoms and reductions in their drug use, plus a potential saving of £6.9 million or more on the NHS drugs budget.

14.2. H:MC21 has subsequently supplied evidence from the Scottish Parliament which confirms that the savings we said in the advertisement “could” occur do actually occur, and that the use of homeopathy leads to “enhanced wellbeing and symptom reduction” and “a resultant reduction in NHS costs”. In other words, this reasoning is a true reflection of the facts. [see Scottish Parliament]

15. Response 8

15.1. H:MC21 has supplied evidence to support the claim that the advertisement is not misleading when it states that that Sense About Science is funded by pharmaceutical companies.

15.2. In the light of Assessment 8, it is clear that the ASA now accepts that that this statement was not misleading.

15.3. **In the light of the two versions of Assessment 8, it is also clear that the ASA is attempting to radically and knowingly re-formulate this complaint. H:MC21 considers this to be wholly unacceptable.**

16. Response 9

16.1. H:MC21 has already stated that the *Halloween Science* was peer-reviewed prior to publication. Two of the peer reviewers were academics with university positions. They were neither homeopaths nor personally known to the author of *Halloween Science*. Statements from these peer-reviewers could be obtained, if this would be helpful.

- 16.2. The response does not state that H:MC21 had identified 19 major errors in *Trick or Treatment?*, and that only a few specific issues of definitions were detailed in the original submission. H:MC21 had expected that the ASA would read this critique in order to assess the arguments since claims of scientific unreliability on this scale require thorough explanation.
- 16.3. In the light of Assessment 9, a selection of specific examples is provided from *Trick or Treatment?* in order to demonstrate further failures of scientific reliability in this book. All page numbers, unless otherwise specified) are from the British hardback edition of Simon Singh and Edzard Ernst, *Trick or Treatment?* (London: Bantam Press, 2008). The relevant pages in Halloween Science are also provided.

16.3.1. *Theory of science*

16.3.1.1. According to established ideas (our emphasis):

16.3.1.1.1. “One of the key problems in philosophy of science is to understand how techniques such as experimentation, observation, *and theory-construction* have enabled scientists to unravel so many of nature’s secrets.” Samir Okasha, *Philosophy of Science: A very short introduction* (Oxford: Oxford University Press, 2002), p. 2. [Samir p2, and see Halloween Science p. 7]

16.3.1.2. On the other hand *Trick or Treatment?* states (our emphases):

16.3.1.2.1. “It explains how scientists, *by experimenting and observing*, can determine whether or not a particular therapy is effective.” (p. 1) [Trick p1, and see Halloween Science p. 8]

16.3.1.2.2. “Science employs experiments, observations, *trials, argument and discussion in order to arrive at an objective consensus on the truth.*” (p. 1) [Trick p1, and see Halloween Science p. 8]

16.3.1.3. The omission of “theory-construction” and its replacement by “consensus” changes the definition of science to one of empiricism. This position is unscientific.

16.3.2. *Definition of alternative medicine*

16.3.2.1. The following statements all appear in *Trick or Treatment?*

16.3.2.1.1. “our definition of alternative medicine is any therapy that is not accepted by the majority of mainstream doctors” (p. 1). This definition is based on an entirely subjective criterion. [Trick p1, and see Halloween Science p. 9]

16.3.2.1.2. “chiropractors have become part of the medical mainstream” and “it makes no sense at all from a modern scientific point of view. That is why chiropractic treatment is still considered by many as an alternative medicine” (pp. 147, 148). According to the first definition chiropractic is not alternative medicine, but a new criterion is introduced in order to be able to define it as alternative. [Trick p147, Trick p148, and see Halloween Science pp. 74-75]

16.3.2.1.3. “Plants contain a complex cocktail of pharmacologically active chemicals, so it is not surprising that some of them can impact on our wellbeing. Consequently, herbal medicine has been embraced by science to a far greater extent than the other treatments above” and “Despite all these examples, which demonstrate that numerous herbs have become part of mainstream medicine, it is important to stress that much of herbal medicine

is still considered alternative” (pp. 196, 197). According to the second definition herbal medicine is not alternative medicine, but a new criterion is produced (see below) in order to be able to define it as alternative. [Trick p196, and see Halloween Science pp. 83-84]

16.3.2.1.4. “This brings us to an interesting situation: any provably safe and effective alternative medicine is not really an alternative medicine at all, but rather it becomes a conventional medicine. Therefore, alternative medicine, by definition, seems to consist of treatments that are untested, or unproven, or disproven, or unsafe, or placebos, or only marginally beneficial” (p. 287). This is not a scientific definition since it is based on a purely empirical approach. It also contradicts itself and the first definition since many treatments are not considered to be alternative and are “accepted by the majority of mainstream doctors” even though they are “untested, or unproven, or disproven, or unsafe, or placebos, or only marginally beneficial”. The *British Medical Journal Clinical Evidence* findings referred to elsewhere demonstrate that the majority of the 2,500 most commonly used treatments in the NHS would be classed as alternative medicine under this definition, whereas they are actually regarded as conventional medicine. [Trick p287, and see Halloween Science pp. 124-126]

16.3.2.2. From these quotations it can be seen that alternative medicine is defined in completely contradictory ways in *Trick or Treatment?* This position is unscientific.

16.3.3. *Lack of references*

16.3.3.1. *Trick or Treatment?* was criticised for its failure to provide references for the evidence it produced. As a result the authors began to provide references online, but this task has not been completed (available at <http://www.trickortreatment.com/references.html>). [see ToT References, ToT References 5, ToT References 6] We include a selection of examples of unreferenced statements below with comments.

16.3.3.1.1. *Figures*: “Indeed, it is estimated that the annual global spend on all alternative medicines is in the region of £40 billion, making it the fastest-growing area of medical spending.” (p. 2) In this case the information (amount spent) is not even capable of supporting the conclusion drawn from it (rate of growth of amounts spent). [Trick p2, and see Halloween Science p. 12]

16.3.3.1.2. *Trials*: “In fact, a major study in 2006 confirmed numerous previous investigations showing that fears over mercury fillings were groundless.” (p. 265) This was not a “major study” but actually two separate studies, as the online references to Chapter 6 subsequently confirmed. [Trick p265, ToT References 6, 2nd and 3rd references for p. 320, and see Halloween Science pp. 106-107]

16.3.3.1.3. *Events*: “This success was repeated during a cholera epidemic in London in 1854, when patients at the London Homoeopathic Hospital had a survival rate of 84 per cent, compared to just 47 per cent for patients receiving more conventional treatment at the nearby Middlesex Hospital.” (p. 107) This evidence is not only unreferenced, but also conflicts with that in Michael Emmans Dean, *The Trials of Homeopathy* (Essen: KVC Verlag, 2004), pp.

Response to Recommendations – page 8 of 15

126-129, where it is referenced. [Trick p107, Dean p126, Dean p128, and see Halloween Science p. 55]

16.3.3.1.4. *Quotations*: “A therapeutic agent cannot be employed with any discrimination or probability of success in a given case, unless its general efficacy, in analogous cases, has been previously ascertained’.” (p. 23) This is ascribed to Pierre Louis. No scientific support is offered for its basic assumption. [Trick p23, and see Halloween Science p. 23]

16.3.3.1.5. *Statements*: “These treatments are piled high in every pharmacy, written about in every magazine, discussed on millions of web pages and used by billions of people, yet they are regarded with scepticism by many doctors.” (p. 1) The scale of these figures requires supporting evidence. For example, with a world population of approximately seven billion people, “billions” means more than 28% of people. [Trick p1, and see Halloween Science p. 11-12]

16.3.3.1.6. *Opinions*: “Homeopaths would argue that the remedy has some memory of the original ingredient, which somehow influences the body, but this makes no scientific sense.” (p.100) No justification is offered for the opinion. [Trick p100, and see Halloween Science p. 49]

16.3.3.1.7. *Explanations*: “This would involve giving daily doses of a homeopathic remedy to several healthy people and then asking them to keep a detailed diary of any symptoms that might emerge over the course of a few weeks.” (p. 96) No source is provided for this inadequate explanation. [Trick p96, and see Halloween Science pp. 52-53]

16.3.3.2. Failure to provide references and the provision of inaccurate information is unscientific.

16.3.4. *Use of double standards for evidence*

16.3.4.1. The following statements are examples of different standards of evidence being used in *Trick or Treatment*?

16.3.4.1.1. “The study had no control group, so it was impossible to determine whether these patients would have improved without any homeopathic treatment.” (p. 140) This was a statement about the professionally conducted clinical outcome study involving 6,544 patients at the Bristol Homeopathic Hospital. [Trick p140, and see Spence and Halloween Science p.78]

16.3.4.1.2. “There are numerous reports of patients with serious conditions (e.g. diabetes, cancer, AIDS) suffering harm after following irresponsible advice from alternative practitioners instead of following the advice of a doctor.” (p. 186) This statement is wholly unsupported by any evidence. [Trick p186, and see Halloween Science p. 78]

16.3.4.1.3. “You can give people this totally accurate (but emotionally laden, and sensationalist) information about water. When you then survey these people, about three quarters of them will willingly sign a petition to ban it.” (p. 267) This statement is not based on any professional study, let alone a controlled one, but comes from an article from ABC Online. [Trick p267, ToT References 6, reference to p. 323, and see Halloween Science p. 107]

16.3.4.2. The use of double standards is unscientific.

16.3.5. *Errors of fact about homeopathy*

16.3.5.1. *Trick or Treatment?* Contains statements about homeopathy which are factually wrong.

16.3.5.1.1. “The completely crass nature of alternative-medicine degrees is easily demonstrated by a question posed in 2005 to students taking the ‘Homeopathic Materia Medica 2A’ examination at the University of Westminster, London: ‘Psorinum and Sulphur are Psoric remedies. Discuss the way in which the symptoms of these remedies reflect their miasmatic nature.’ This question is a throwback to the Dark Ages of medicine, when it was believed that disease was caused by *miasmas*, which were poisonous vapours – the idea became obsolete in the late nineteenth century when scientists developed the more accurate and useful germ theory of disease. (p. 255) In fact, as we have already shown, the term ‘miasms’ was specifically used by homeopaths to refer to microbial disease agents. [Trick p255, and see Hahnemann p758 and Halloween Science pp. 103-104]

16.3.5.2. Failure to research a subject properly and to reproduce major errors of fact is unscientific.

17. Response 10

17.1. None of the issues raised in H:MC21’s response to the previous draft of recommendations has been taken into account.

18. Response 11

18.1. H:MC21 also provided the original German version of the interview.

18.2. Issues raised in H:MC21’s response to the previous draft of recommendations have not been taken into account, including the fact that

18.2.1. H:MC21 has not stated that Ernst “was unable to objectively assess any evidence for the medicine”.

18.2.2. Ernst has repeatedly stated that he has adequate training in homeopathy without any objective evidence that this is true.

18.3. In the light of Assessment 11, we draw the ASA’s attention to Ernst’s response in the *New Statesman* to this advertisement. [attached as Ernst NS]

18.3.1. Ernst stated that “I started my medical career in a homoeopathic hospital, where I was trained in homoeopathy for several months”. This would be considered wholly inadequate training by any of the main bodies registering homeopaths in the UK.

18.3.2. Ernst also stated that “the two basic principles of homoeopathy fly in the face of science, logic and common sense”. Without discussing any other errors in this statement, H:MC21 has already shown that the principle of treating with similars does not “fly in the face of science, logic and common sense”. As a result, we consider that Ernst has actually justified our raising the issue of his lack of specific qualifications in homeopathy.

19. Response 12

19.1. This response is incorrect and incomplete.

19.2. The minutes supplied were those of the Parliamentary Committee itself, not “a document which examined ... the report”.

19.3. H:MC21 pointed out that the changes demanded by this report were profound.

- 19.4. H:MC21 provided evidence that only one of the three MPs voting for the report had attended the hearings, and that two of the three MPs had close connections with interests opposed to homeopathy.
- 19.5. On this basis H:MC21 considered it appropriate to draw attention to the numbers voting for the report.
- 19.6. H:MC21 supplied supplementary information about the Nolan criteria for standards in public life (of which H:MC21 would have expected the ASA to be aware). This confirms H:MC21's position since it makes it clear that the scrutiny of the decisions of public bodies is expected and that it is ethically correct to point out behaviour which appears to breach these principles.

Assessments

20. Assessment 1

- 20.1. H:MC21 draws the ASA's attention to General Points 1 to 4 above concerning the fact that claims for homeopathic treatment are not "new", "breakthrough" or inherently "controversial" claims.
- 20.2. H:MC21 draws the ASA's attention to General Points 5 and 6 above concerning the Commons Science and Technology Committee's *Evidence Check 2: Homeopathy*.
- 20.3. H:MC21 notes that the ASA has introduced a new argument that "no scientific rationale existed for assuming that remedies lacking in pharmacological [sic] active molecules could produce clinical effects". If this is now to form part of the ASA's case, H:MC21 would to need see the ASA's justification for this argument and require time to present a detailed response, since there has been no reason to provide information on this issue before, and it raises a number of complex questions.**
- 20.4. H:MC21 notes that the ASA has introduced a new argument that a "scientific rationale for any reported changes in the physiological or psychological health of those patients" is required. If this is now to form part of the ASA's case, H:MC21 would to need see the ASA's justification for this argument and require time to present a detailed response, since there has been no reason to provide information on this issue before, and it raises a number of complex questions.**

21. Assessment 2

- 21.1. H:MC21 has already noted that the ASA considers that "most readers would interpret the claim" as that "the study demonstrated over 70% of the patients tested experienced a reduction in the symptoms of their chronic illness following the introduction of homeopathic treatment." H:MC21 has also pointed out that those readers would be absolutely correct in their interpretation.
- 21.2. We note that the ASA considers that self-assessments of health are insufficient as a basis for claiming improvement in symptoms, but symptoms are, by definition, only observable by the patient. Furthermore, several of the most commonly referred conditions treated in the study may not be readily assessed other than symptomatically, such as migraine, IBS, menopausal problems, ME/CFS and depression. [Spence p. 796]
- 21.3. At the same time, the study was conducted by doctors with conventional medical training and access to the means to make objective assessments. As a result, "Objective parameters were incorporated in the assessment whenever possible (e.g., alteration in conventional

medication, changes in forced expiratory volume, measurable changes in mobility or exercise tolerance, or changes in results of investigations).” [Spence p. 794]

21.4. For example, the highest proportion of patients claiming the most benefit were patients under 16 years old with eczema (45% scoring +3) and asthma (49% scoring +3), where improvement would be readily observable by others, such as parents, and could be confirmed by objective measures, such as reduced medication or changes in forced expiratory volume. [Spence p. 796]

21.5. Finally, both the advertisement and H:MC21’s submissions included reference to other similar studies. The fact that there was a close correlation between results from the Bristol study and these other studies indicates that the results are not unusual for homeopathic treatment in clinical practice.

21.6. H:MC21 considers, therefore, that the advertisement was not misleading.

22. Assessment 3

22.1. H:MC21 did not “intend this claim to demonstrate that RCTs were unreliable as a source of evidence”, and has not stated that it did.

22.2. H:MC21 intended to make it clear that a significant proportion of RCTs concur with the results of clinical outcome studies, whilst a very much smaller proportion contradict these studies.

22.3. It is exceedingly difficult to see how an educated reader could find the terms ‘positive’ and ‘negative’ ambiguous when applied to the results of RCTs in an advertisement promoting increased use of homeopathy.

22.4. Furthermore, the ASA’s argument that these terms are ambiguous is not consistent with the simultaneous argument “that the statement was likely to be interpreted by the average reader as a claim that randomised controlled trials on homeopathy demonstrated that the science behind the medicine was substantiated because more ‘positive’ than ‘negative’ results were achieved.”

22.5. H:MC21 notes that the ASA has introduced a new argument “that the statement was likely to be interpreted by the average reader as a claim that randomised controlled trials on homeopathy demonstrated that the science behind the medicine was substantiated because more ‘positive’ than ‘negative’ results were achieved.” However, in the context of the readership of the *New Statesman*, which is aimed at people who are well-educated, their first question would be about the remaining 49% of RCTs, and so it is difficult to imagine that they would jump to any such conclusion.

22.6. H:MC21 also draws the ASA’s attention to General Point 7 above.

22.7. H:MC21 has addressed the issues of inconclusive RCTs in the notes on Response 3. It should be pointed out that referring to these inconclusive RCTs in the advertisement without any explanation could easily lead readers to think that inconclusive and negative results can be jointly counterposed to positive results. In fact, this is not true, and so including inconclusive results would be genuinely misleading.

23. Assessment 5

23.1. Please note the typo in the name of the MHRA.

24. Assessment 6

24.1. The insistence on H:MC21 providing the evidence used by the *British Medical Journal* has been addressed already in the notes on Response 6.

- 24.2. The argument that providing this information “could discourage some readers from seeking essential treatment for conditions for which medical treatment should be sought” does not appear to have any objective basis, even if one accepts that the ASA means ‘conventional medical treatment’.
- 24.3. Firstly, the advertisement does not identify what treatments have unknown effectiveness, so no reader would have a basis for rejecting conventional medical treatment for a specific condition on the basis of this information alone.
- 24.4. Secondly, it is entirely reasonable to expect that the well-educated readers of the *New Statesman* would investigate their options before deciding on what treatment they will seek for a condition, and any possible risks arising from lack of access to conventional investigations and treatment would be a serious factor they would consider. The fact that the advertisement was in a Care supplement means that the readership would be even more likely to be aware of health issues.
- 24.5. Thirdly, the advertisement was specifically promoting an increased use of homeopathy within the NHS, precisely so that both homeopathic and conventional treatments and investigations would be available.
- 24.6. Fourthly, the highly detailed case-taking of homeopathic practice can lead to serious conditions being more readily identified than in the standard GP consultation, and members of the main registering bodies of homeopaths in the UK are required to encourage patients to seek conventional investigations in such circumstances.
- 24.7. Fifthly, the possibility that serious conditions may not be identified is a problem which occurs within conventional medicine, so the choice of a conventional medical practitioner is no guarantee that appropriate treatment will be provided.
- 24.8. Sixthly, there are cases where conventional medical treatment has been ineffective, whereas homeopathic treatment has been successful, so it is not certain that “essential treatment for conditions” equates to conventional treatment. One example of this is the case of Roger Daltry’s son. [see Daltry]

25. Assessment 7

- 25.1. H:MC21 draws the ASA’s attention to General Points 1 to 4 above concerning the fact that claims for homeopathic treatment are not “new”, “breakthrough” or inherently “controversial” claims.
- 25.2. H:MC21 draws the ASA’s attention to General Points 5 and 6 above concerning the Commons Science and Technology Committee’s *Evidence Check 2: Homeopathy*.
- 25.3. H:MC21 has already presented evidence that reliance on evidence of efficacy is unjustifiable within the EBM paradigm, and even the *Evidence Check* makes it clear that there is no congruence between evidence of efficacy and evidence of effectiveness.
- 25.4. **If the ASA intends to argue that the effectiveness of homeopathy in real world circumstances of healthcare provision is predictable by trials of efficacy under ideal conditions, H:MC21 would need to see the ASA’s justification for this argument and require time to present a detailed response, since there has been no reason to provide detailed information on this issue before, and it raises a number of complex questions.**
- 25.5. H:MC21 would like to remind the ASA that H:MC21’s view of the benefits which “could” result from increased use of homeopathy in the NHS has been confirmed as actually occurring by the Cabinet Member for Health in the Scottish Parliament. [see Scottish Parliament]

26. Assessment 8

- 26.1. H:MC21 notes that the ASA has significantly changed its opinion as to what readers “would understand this statement to mean”, and draws the ASA’s attention to General Point 7 above.
- 26.2. H:MC21 is also concerned that the complaint is no longer about the statement which was alleged to be misleading, but about “the claim that the charity based its findings on propaganda”. H:MC21 did not make such a claim in its advertisement, and has made no statements at all in this formal investigation about Sense About Science’s “findings”. In other words the original complaint has been replaced by an imaginary one, and H:MC21 cannot be expected to defend itself against imaginary complaints.

27. Assessment 9

- 27.1. The argument that “H:MC21 believed the book was scientifically flawed because they considered that differences between the two fields of medicine had not been appropriately addressed” is an over-simplification of H:MC21’s submission. The cited critique, *Halloween Science*, identified 19 major flaws in *Trick or Treatment?*, and these were listed in the supplied abstract.
- 27.2. To require “independent evidence” as opposed to “objective evidence” is unreasonable, since it presupposes that someone with no interest in the subject would undertake a detailed analysis which would literally take months to complete, and for which there would be no likelihood of any payment. A publisher would see no market for such a book, and payment from an interested party would void claims of independence.
- 27.3. The rationale of *Halloween Science* was to consider the arguments in *Trick or Treatment?* objectively by using its own statements as a basis for testing its consistency. External material was introduced only when there was a failure to provide the necessary context, or where assertions were made which were demonstrably in contradiction to facts in the public domain.
- 27.4. H:MC21 continues to contend that *Halloween Science* meets the criteria of CAP Code 3.1, and that the only way to assess its objectivity is to read it.
- 27.5. H:MC21 reminds the ASA that this critique was peer-reviewed.
- 27.6. H:MC21 also contends that upholding this complaint without reading *Halloween Science* is to make a ruling without looking at the evidence, and that this ruling will then be seen as a judgement on that unread evidence. To judge the value of something from a position of ignorance of it contravenes any reasonable standard of justice.

28. Assessment 10

- 28.1. H:MC21 draws the ASA’s attention to General Points 1 to 4 above concerning the fact that claims for homeopathic treatment are not “new”, “breakthrough” or inherently “controversial” claims.
- 28.2. The argument that “the claim would be interpreted by most readers to mean that homeopathy was a viable alternative to conventional medicine and that it was more desirable because it did not have any side effects” is unreasonable since it effectively prohibits any publication of the fact that drugs have side effects alongside the fact that homeopathy has no side effects.
- 28.3. H:MC21 considers that the well-educated readers of the *New Statesman* would distinguish between those elements of the advertisement which discuss evidence for homeopathy and this element which solely discusses side effects. It does not believe that these readers would

regard the conjunction of these facts as an argument for the ‘viability’ of homeopathy, but as a point of material interest should they be convinced that homeopathy is ‘viable’.

- 28.4. As regards the objectivity of the ASA’s opinion in general as to how readers would interpret the various parts of this advertisement, H:MC21 draws the ASA’s attention to General Point 7 above.
- 28.5. The argument that providing this information “might discourage some readers from seeking essential treatment for conditions for which medical treatment should be sought” does not appear to have any objective basis, even if one accepts that the ASA means ‘conventional medical treatment’.
- 28.6. It is entirely reasonable to expect that the well-educated readers of the *New Statesman* would investigate their options before deciding on what treatment to seek for a condition. While the issue of side effects might be a factor they would consider, it is highly unlikely that these statements would displace such an investigation of options.
- 28.7. The advertisement was specifically promoting an increased use of homeopathy within the NHS, precisely so that both homeopathic and conventional treatments and investigations would be available.
- 28.8. The highly detailed case-taking of homeopathic practice can lead to serious conditions being more readily identified than in the standard GP consultation, and members of the main registering bodies of homeopaths in the UK are required to encourage patients to seek conventional investigations in such circumstances.
- 28.9. The possibility that serious conditions may not be identified is problem which occurs within conventional medicine, so the choice of a conventional medical practitioner is no guarantee that appropriate treatment will be provided.
- 28.10. There are cases where conventional medical treatment has been ineffective, whereas homeopathic treatment has been successful, so it is not certain that “essential treatment for conditions” equates to conventional treatment. One example of this is the case of Roger Daltry’s son. [see Daltry]

29. Assessment 11

- 29.1. H:MC21 notes that the ASA has changed its view on why this statement is misleading, and draws the ASA’s attention to General Point 7 above.
- 29.2. H:MC21 notes that the ASA is now claiming that the advertisement implies criticism of Ernst’s “scientific knowledge and expertise”. However, H:MC21 has made no statement in the advertisement or in its responses to this complaint about Ernst’s “scientific knowledge and expertise” in general, but only about his specific qualifications in homeopathy. This extrapolation of a specific concern into a general one is unjustified by the advertisement or by H:MC21’s responses to the complaint.
- 29.3. In the notes on Response 11 above H:MC21 has presented supplementary evidence in which Ernst, whilst criticising H:MC21’s advertisement, has confirmed both the points made by H:MC21 about the inadequacy of his training in homeopathy.

30. Assessment 12

- 30.1. H:MC21 draws the ASA’s attention to General Points 5 and 6 above concerning the Commons Science and Technology Committee’s *Evidence Check 2: Homeopathy*.
- 30.2. H:MC21 notes that the ASA has changed its justification for this recommendation and draws the ASA’s attention to General Point 7 above. In the context of General Points 5 to 7,

H:MC21 is particularly concerned that the changes have produced a more aggressive accusation on more limited grounds.

- 30.3. H:MC21 continues to contend that it is a matter of public interest that this report, which demanded profound restrictions on homeopathy, was voted for by only three MPs of which two demonstrably lacked impartiality.