IPSO Complaint

16 March 2017

***The Times*, 13 March 2017**
Matt Ridley: "Deal or no EU deal, Britain has little to fear"

I wish to complain about an article in The Times of 13 March 2017, written by Matt Ridley, headed: "Deal or no EU deal, Britain has little to fear", with the sub-heading: "Trade agreement with Brussels can be struck swiftly but a future under World Trade Organisation terms looks bright".[1]

The substance of my complaint is that The Viscount Ridley/The Times is in breach of the editor's code with reference to Paragraph 1, Accuracy, in that there was published "inaccurate, misleading or distorted information" including headlines not supported by the text.

Within that, there are four heads to my complaint, that Ridley distorts information and makes misleading and/or inaccurate claims: (1) on the timescale of agreements; (2), on the nature of those agreements; (3) on the nature of national treatment in relation to non-tariff barriers; and (4) on the claimed absence of trade deals between the EU and the United States, China and India.

More details of the complaint are accessible though by own blog, EUReferendum.com, which also provides useful links to primary sources.[2]

1. The timescale of trade agreements

The context of the article is highly relevant in that – as the article itself states – the prime minister was due "to press the button and launch Article 50 on its inexorable, ballistic trajectory towards impact in March 2019".

[1] http://www.thetimes.co.uk/edition/comment/deal-or-no-eu-deal-britain-has-little-tofear-6ds6sldqt
[2] http://www.eureferendum.com/blogview.aspx?blogno=86407

The main thrust of the article is to address the argument that, at two years, the "timetable is too tight", and we are thus "going over a cliff". Ridley asserts that the argument that the two-year timescale is too short is "is mostly wishful thinking by those who want us to fail".

His purpose is quite evidently and unmistakably to argue that an EU-UK free trade agreement can be negotiated and concluded within a two-year time period, to which effect he calls in aid details of trade agreements concluded by Australia in respect of China, South Korea and Japan.

In this context, Ridley alludes to a conversation with Tony Abbott, former Australian prime minister. This allows a claim that that his country's trade negotiators had spent years ***meandering towards deals*** with China, Japan and other countries.

The use of the italicised phrasing is, I would aver, highly misleading and sets up a distorted and inaccurate framework. Trade negotiations are in fact, a formal process leading to the agreement of a formal international treaty.

The process usually starts with preliminary (scoping) discussions, very often commissioning and publication of a feasibility study and then a number of formal negotiation sessions known as "rounds". These may stretch into double digits. Some indication of the nature of the process is given in the European Commission website.[3]

For Ridley to rely in the phrasing ***meandering towards deals***, therefore, misleads as to the gravity and formality of the negotiation process. Further, beyond the reference to "years", Ridley gives no hint of how long the formal negotiation periods, as between China, Japan and other countries have actually lasted.

Instead, Ridley asserts that, after the intervention on Tony Abbott: "Within six months Australia had signed a trade deal with South Korea. Japan took eight months, China 13".

The necessary and intended implication here is that these trade deals were negotiated and concluded within the periods stated. Up to the period when Mr Abbott intervened, negotiators were only ***meandering*** towards those deals. This ambiguous term does not necessarily (or at all) allow that there were formal negotiation in progress.

[3] http://trade.ec.europa.eu/doclib/docs/2012/june/tradoc_149616.pdf

As to the actual periods of negotiations, each of the treaties have dedicated pages on the Australian government website.[4] From these and other sources, it can be readily ascertained that these trade deals respectively, took 6, 9 and 10 years to negotiate to the signing stage.

Responding to my complaint for *The Times*, Rose Wild asserts that Ridley's article did not imply that the deals were negotiated and concluded within the timescales noted by him. He makes it "absolutely clear", she says, "that these timescales dated from the point at which Tony Abbott set a deadline for the negotiators".

However, Ridley does not convey any specific information as to how long the negotiations actually took. The only figures he offers are the periods of months in his article. If he had stated within his article how long they took to negotiate, he would destroyed his own argument. The only case he might have made was that the intervention by Abbott speeded up the process of negotiation, and then not by very much.

But this latter case is not the case Ridley makes. From the headline and content of his article, he seeks to show that a "Trade agreement with Brussels can be struck swiftly", citing Australian trade deals as examples. The necessary and intended inference of his article is that an EU-UK negotiation can be concluded within a two-year period. That is what he implies from the use of the term "swiftly".

2. The nature of Australia's trade deals

Having implied that trade deals between Australia and specific parties can be done "swiftly" (i.e., in less than two years), the Viscount Ridley then seeks to explain the reason why this is possible, purporting to show that Australian trade deals are simpler than those sought by the EU. This is misleading and again relies on inaccurate portrayal of facts.

As before, Ridley calls in aid Mr Abbott, using him to assert that "trade deals are simple — if (shock!) you make them about trade", adding: "It's only when you make them about standards, regulations, legal disputes and corporate interests that they get difficult".

This addition passage strengthens the original assertion that the deals were concluded speedily, with Ridley later adding: "Countries such as Australia and Iceland did quick trade deals with China that were about . . . trade".

[4] See, for instance: http://dfat.gov.au/trade/agreements/kafta/official-documents/Pages/default.aspx

By reference to this Australian Government website, though, we see that the China agreement is a complex, comprehensive trade agreement, which goes far beyond the structure of a simple free trade agreement, which deal mainly with tariffs.[5] The text of the main agreement runs to 163 pages.[6]

The tariff schedules run to 337 pages for Australia and 266 pages for China. Rules of origin run to 136 pages and Annex III (Schedule on non-conforming measures) is 126 pages. In total, including "side letters" and related MOUs, the entire free trade agreement runs to 1,427 pages. By contrast, the EU-South Korea Free Trade Agreement comprises 1,432 pages and covers very similar territory. In all major respects, the treaties are comparable.[7]

In her defence of the Viscount Ridley, Rose Wild is dismissive of my argument that the Australia-China treaty also covers standards, regulations, legal disputes and corporate interests. She says: "Of course trade deals involve some details about standards, regulations, etc. The issue is how much, and in what detail".

The writer (Ridley), she says, "was using expressive language to say that simpler deals can be done faster. Australia's free trade agreements, she asserts, are considerably simpler in respect of standards, regulations, etc, than those the EU has been trying to agree, which is why they were faster and easier to negotiate".

My point, however, is that Australia's free trade agreements are not "considerably simpler in respect of standards, regulations, etc, than those the EU has been trying to agree", and demonstrably so. Nor is it the case that they have been "faster and easier to negotiate".

To assert otherwise is inaccurate and misleading. In those respects, what Ridley has written is highly misleading. He has not demonstrated or offered any evidence whatsoever that there is any substantive difference between the style of agreements as between Australia and other parties, and the EU and other parties.

3. The nature of national treatment in relation to non-tariff barriers

In pursuing the generality of his argument that "a future under World Trade Organisation terms looks bright", Ridley claims that, " … under the WTO's national treatment principle, the EU cannot use non-tariff barriers, such as regulations and standards, to discriminate against British goods and services to

[5] http://dfat.gov.au/trade/agreements/chafta/official-documents/Pages/official-documents.aspx
[6] http://dfat.gov.au/trade/agreements/chafta/official-documents/Documents/chafta-agreement-text.pdf
[7] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2011:127:FULL&from=EN

favour domestic businesses instead". That claim is untrue and falls within the editor's code as being inaccurate.

Rose Wild, on the other hand, claims that this is "a fair summary of a more detailed point made in the *Financial Times* on March 1, 2017". She does not identify the article in which the point is made, but instead quotes from what appears to be reference to a polemic from a campaigning website.[8] The quote is as follows:

> What about non-tariff barriers (NTBs), such as laws setting technical and regulatory standards? It is too often forgotten that the WTO has tough rules on these too. It requires them to be non-discriminatory; it prohibits their use for protectionist purposes. In particular, the WTO brings all regulations and other NTBs under the National Treatment Principle, its other great rule of equal treatment. All such measures must apply equally to imported products and domestic products alike. Naturally, European internal laws will apply to British European exports to Europe, but they must treat them equally with European domestic products.

Specifically, the claim is misleading, on two grounds. Firstly, according to the WTO's own website: "National treatment only applies once a product, service or item of intellectual property has entered the market".[9] The site refers to charging customs duty on an import, pointing out that it is not a violation of national treatment even if locally-produced products are not charged an equivalent tax.

Secondly, in respect of technical controls applied at the border, preferential Regional Trading Areas (RTAs) are permitted to grant preferential access to their members. Thus the EU can and does apply restrictions on entry to third country products which it does not apply to goods from other Member States.

For instance, imports of animals and products of animal origin from third countries must enter the EU via an approved Border Inspection Post of the EU under the authority of an official veterinarian.[10] This requirement does not apply to intra-community trade in such goods. The point here, as stated by the WTO website, is that:

> Non-discrimination is a core principle of the WTO. Members have committed, in general, not to favour one trading partner over another. An exception to this rule is RTAs. These deals, by their very nature, are discriminatory as only their signatories enjoy more favourable market-access conditions.[11]

[8] http://brexitcentral.com/government-business-prepare-advantages-trading-wto-rules/
[9] https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm
[10] https://ec.europa.eu/food/sites/food/files/safety/docs/ia_trade_import-cond-meat_en.pdf
[11] https://www.wto.org/english/tratop_e/region_e/scope_rta_e.htm

The situation is explained in detail by WTO publications.[12]

4. The absence of trade deals with America, China and India

Finally in respect of this complain, Ridley also asserts, falsely, that the EU has no trade deals with America, China and India, expressed in this context:

> Besides, there seems to be a growing misapprehension that you need trade deals to trade, as if they were licences to trade. America, China and India, with which the EU has no deals, are among its biggest trading partners. The EU is actually the best organisation to join if you don't want trade deals. It has remarkably few and they are mostly with small countries: Mexico and South Korea are the biggest. This is not surprising, because getting 28 countries to agree the terms of a trade deal is not easy.

Specifically, to assert that: America, China and India "has no deals" with the EU is manifestly false. Yet, in response to my complaint, Rose Wild relied on an entry in Wikipedia (rather than a primary source), stating: "Here is a list of the EU's free-trade agreements; China, India and America are not on the list".[13]

This, however, is a highly selective use of Wikipedia. The site also offers: "China–European Union relations", which states:

> Relations are governed by the 1985 EU-China Trade and Cooperation Agreement. Since 2007, negotiations have been underway to upgrade this to a new European Union Association Agreement and there are already 24 sectoral dialogues and agreements from environmental protection to education.

The 43-page 1985 Agreement is a full-blow treaty and sets up the infrastructure for relations between the EU and China.[14] Its specific purpose, declared in the recitals, is to "promote and intensify trade" and, therefore, in all respects qualifies as a trade deal.

Trade relations and related agreements are a contentious area which has already been rehearsed in Parliamentary select committees, and in particular in the oral evidence of Ivan Rogers, where he said:

> No other major player trades with the EU on pure WTO-only terms. It is not true that the Americans, Australians, Canadians, Israelis or Swiss do. They strike preferential trade deals where they can, but they also strike

[12] https://www.wto.org/english/res_e/booksp_e/historywto_13_e.pdf
[13] https://en.wikipedia.org/wiki/European_Union_free_trade_agreements
[14] http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=783

> more minor equivalence agreements: financial services equivalence agreements, veterinary equivalence agreements, mutual conformity of assessment agreements. The EU has mutual conformity of assessment agreements with the US, Canada, Israel, Switzerland, Australia and New Zealand, and more.[15]

This was televised and widely reported in the press, and the general point was also picked up in a front-page article by *The Guardian* which, on 12 March reported that:

> Research commissioned by Open Britain, which campaigns for continued ties with Europe in the aftermath of Brexit, found that no members of the G20 group of richer nations currently interact with the EU without some sort of trade arrangement.[16]

The research is available on-line.[17] But, by reference to the EU treaty database, it is possible relatively easily to ascertain an accurate, authoritative picture. For instance, I had established that there were 38 EU-US "trade deals", of which at least 20 were bilateral.[18]

The crucial point here is that these are trade deals, and Ridley specifically refers to trade deals. He does not qualify the reference by using the term "free trade agreement" which has a narrow, legally defined meaning and which must be registered with the WTO. The list on which Rose Wild relies, by contrast, is the narrow WTO list, which does not include any details of the multiplicity of trade deals between the EU and third countries, numbering in excess of 800.
[19]

Even had the Viscount Ridley sought to qualify his own reference, limiting it to free trade agreements, that in itself would have been misleading.

For historical and political reasons, many countries prefer to conduct their trading relations with the EU without resort to the formal mechanism of the free trade agreement, achieving the same effect by other means – as argued by Sir Ivan Rogers. The WTO itself points out that there are disadvantages to the

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[15] http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/exiting-the-european-union-committee/the-uks-negotiating-objectives-for-its-withdrawal-from-the-eu/oral/47657.pdf

[16] https://www.theguardian.com/politics/2017/mar/12/no-deal-brexit-would-put-uk-in-worst-trading-position-of-rich-nations

[17] http://www.open-britain.co.uk/background_briefing_trading_relationships_between_the_eu_and_g20_nations

[18] http://www.eureferendum.com/blogview.aspx?blogno=86036

[19]

RTA system, which can hamper the implementation of wider multilateral deals.[20]

Interestingly, there is no formal free trade agreement between the EU and Australia. The Australian government in 1997 preferred a different arrangement, with two main elements: a joint declaration on EU-Australian relations and, two years later, a Mutual Recognition Agreement on conformity assessment.[21,22]

Concluding remarks

In her response to my complaint, Rose Wild asserts that the Ridley article was "an opinion piece", and such articles "necessarily have to summarise complex subjects". That, it would seem, is the newspaper's main justification for Ridley's inaccuracies: one is allowed to be inaccurate because one is summarising complex subjects.

Even if that argument had merit, the Viscount Ridley is not an ordinary columnist. He is an active parliamentarian and a member of the science and technology committee, with full access to the information resources of the House of Lords.[23] He has every opportunity to obtain correct information and, as an experienced writer, has little excuse for getting it wrong. His task, precisely, is to summarise complex subjects – and to do this accurately, honestly and fairly.

The facts of this matter are that concluding free trade agreements is most often a long and complex process. There are very few examples of modern agreements being concluded inside two years. Australian free trade deals can be as complex as EU trade deals, and take as long to conclude; the EU is able to discriminate against the UK, outwith the framework of a free trade agreement; and the EU has multiple trade agreements with many countries which do not fall within the definition of a free trade agreement.

None of that is to be found in the Viscount Ridley's article. Its absence and the inaccurate assertions made, in their totality, breach the standard of accuracy required under the editor's code.

[20] https://www.wto.org/english/tratop_e/region_e/scope_rta_e.htm
[21] http://eeas.europa.eu/archives/delegations/australia/documents/more_info/timeline.pdf
[22] http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=771
[23] http://www.parliament.uk/biographies/lords/viscount-ridley/4272

Annex

Correspondence with The Times

Richard North re: Matt Ridley

Initial complaint via the online complaint form, sent 14 March 2017

The thrust of the Article by Matt Ridley is that free trade agreements can be concluded quickly, citing agreements with China, South Korea and Japan.

Although he does not specifically assert as much, he implies, respectively, that agreements were concluded in 13, 6 and 8 months. In fact, from initial discussions to signing, the agreements, respectively, took 10, 6 and 9 years.

Ridley then asserts that the agreements were reached quickly (even though they were not) because they were about "trade" rather than "standards, regulations, legal disputes and corporate interests".

Yet, inspection of the Agreements, and specifically the China Agreement, shows them to be comprehensive agreements which included considerable detail on "standards, regulations, legal disputes" and on matters which could be classified as "corporate interests".

Thus, Ridley not only misinforms his readers as to the timescales of these agreements, he misinforms them as to their nature.

He then goes on to misinform his readers about the effect of national treatment on non-tariff barriers, asserting that this will prevent discrimination against the UK, when it will not.

Ridley also asserts, falsely, that the EU has no trade deals with America, China and India, which is manifestly false.

On four levels, therefore, Ridley distorts information and makes misleading and/or inaccurate claims: on the timescale of agreements, on the nature of those agreements, on the nature of national treatment, and on the claimed absence of trade deals with the EU.

A fuller treatment of these issues can be seen here:

http://www.eureferendum.com/blogview.aspx?blogno=86407

This is written by me, which I submit as an annex to my complaint and a part of it.

Reply by e-mail, received 15 March 2017

Dear Dr North

You have complained of Matt Ridley's article, "Deal or no EU deal, Britain has little to fear", published on March 13, that it contains inaccurate, misleading or distorted information.

To take your points in order:

1. The timescale of agreements. You say that the writer implies that agreements were concluded in 13, 6 and 8 months. The article implies no such thing. It makes absolutely clear that these timescales dated from the point at which Tony Abbott set a deadline for the negotiators. "Noticing that his country's trade negotiators had spent years meandering towards deals with China, Japan and other countries — enjoying room service in five-star hotels in different cities as they did so — he set them deadlines".

2. The nature of the trade deals. Of course trade deals involve some details about standards, regulations, etc. The issue is how much, and in what detail. The writer was using expressive language to say that simpler deals can be done faster. Australia's free trade agreements are considerably simpler in respect of standards, regulations, etc, than those the EU has been trying to agree, which is why they were faster and easier to negotiate. Prime minister Abbott intervened because he perceived that non-trade issues were holding up the process.

3. The nature of national treatment. The author wrote: "Second, under the WTO's national treatment principle, the EU cannot use non-tariff barriers, such as regulations and standards, to discriminate against British goods and services to favour domestic businesses instead". This was a fair summary of a more detailed point made in the Financial Times on March 1, 2017:

"What about non-tariff barriers (NTBs), such as laws setting technical and regulatory standards? It is too often forgotten that the WTO has tough rules on these too. It requires them to be non-discriminatory; it prohibits their use for

protectionist purposes. In particular, the WTO brings all regulations and other NTBs under the National Treatment Principle, its other great rule of equal treatment. All such measures must apply equally to imported products and domestic products alike. Naturally, European internal laws will apply to British European exports to Europe, but they must treat them equally with European domestic products". http://brexitcentral.com/government-business-prepare-advantages-trading-wto-rules/

4. The claimed absence of trade deals with the EU. Here is a list of the EU's free-trade agreements; China, India and America are not on the list: https://en.wikipedia.org/wiki/European_Union_free_trade_agreements

As you yourself acknowledge, this was an opinion piece, and such articles necessarily have to summarise complex subjects. We are satisfied that in doing so the writer of this piece did not distort or mislead on any of the matters you raise and that the article did not breach the standard of accuracy required under the editors' code.

Yours etc,
Rose Wild
Feedback editor
The Times
thetimes.co.uk/feedback
@TimesFeedback