

Statement by Simon Singh - 1 April 2010

This is a very rushed and slightly haphazard statement. Please forgive any typos, grammatical howlers, lack of coherency etc. Please paraphrase slightly if you can see that I cocked up a sentence or two. If you need to clarify anything then please contact me on:

“It is ridiculous that it has cost £200,000 to establish the meaning of a handful of words. I am delighted that my meaning has been vindicated by three of the most powerful judges in the country, and I relish the opportunity to defend this meaning in court. However, I am still angry that libel is so horrendously expensive. That is just one of the reasons why the battle for libel reform must continue.”

KEY POINTS

1. The ruling is strongly in favour of Simon Singh.
2. The ruling backs Simon Singh's meaning, i.e., BCA is reckless, but not dishonest
3. The ruling backs Simon Singh's assertion that this is a statement of comment, not opinion
4. The Appeal Court suggests strongly that it is unhappy with the current state of libel law.
5. The Appeal Court suggests strongly that science is a particular area of concern, and that libel should not inhibit the open discussion of scientific and medical matters.
6. The Appeal Court suggests the BCA ought to have engaged in public debate and published its scientific evidence rather than launched into a claim against Simon Singh.

Two years ago, in April 2008, I published an article in the Guardian about the effectiveness of chiropractic, particularly in relation to children's conditions such as asthma, colic and ear infections. The goal from the outset was to inform the public about the lack of evidence concerning these treatments.

Instead of triggering a public debate about chiropractic, the article resulted in the British Chiropractic Association suing me personally for libel, which is the very opposite of public debate. The BCA were offered a right of reply and a clarification in the Guardian, but preferred to use the libel laws.

I had two choices, either to back down and apologise or embark on what would inevitably be a long, lonely and costly defence of my article. I refuse to apologise for an article that I believe to be fair, accurate and in the public interest, so the first option was unthinkable. Consequently, two years later I am still fighting my libel case and it could last for another two years.

Today's ruling from the Appeal Court is incredibly important as it overturns a ruling from May 2009 on the meaning of my article. I have always argued that the original

ruling was extreme and unreasonable. Today, it is clear that my article does not call the British Chiropractic Association dishonest, but rather the article says that the BCA is reckless and irresponsible.

"[C's] behaviour in [promoting chiropractic to members of the public as a treatment for infants and young children suffering from colic, sleeping and feeding problems, frequent ear infections, asthma and prolonged crying.] is reckless and irresponsible in the light of the lack of any reliable scientific evidence supporting the effectiveness of such treatments and in the light of the risks of the treatment proposed."

Since May, the BCA have tried to paint me as a somewhat Humpty Dumpty character from Alice in Wonderland: "When I use a word it means just what I choose it to mean - neither more nor less." In fact, three of the most senior judges in the country have confirmed that reasonable men and women would have clearly understood my intended meaning, namely that the BCA are reckless and irresponsible, but not dishonest.

And I am not alone in being concerned about the claims made by the BCA and its members and chiropractors generally.

First, the Advertising Standards Authority has upheld several complaints about chiropractors and the claims they make.

Second, a research review just commissioned by the General Chiropractic Council seems to back up my view of the evidence, or rather the lack of evidence.

Third, the claims I criticised in my article are no longer the BCA website.

Four, huge numbers chiropractors have removed the claims from their websites.

Five, those chiropractors who have not removed the claims are possibly, probably, under investigation - in fact, 1 in 4 chiropractors are currently being investigated by the General Chiropractic Council for making misleading claims.

I am delighted that the Court of Appeal have agreed that my published words mean exactly what I intended them to mean, and I relish the opportunity to defend at trial my criticism of the British Chiropractic Association. I regret that it has taken two years of my career, two years loss of income and legal costs of £125,000 to decide that what I claimed at the outset was right all along. Worse still, I will never recover all of these costs and none of the lost income. In short, successfully defending my own meaning of a handful of words will leave me £200,000 out of pocket.

It cannot be right that a journalist, a scientist, a doctor, an academic journal, a blogger should have to spend hundreds of thousands of pounds to prove that the meaning of the words written is exactly what was intended all along. I am in the very privileged position of having the resources to fight my case - if I can defend my writing, then I damn well should defend my writing no matter how painful it will be. The injustice, however, is that

the vast majority of journalists, scientists, doctors, academic journals and bloggers cannot afford to defend themselves and are therefore effectively silenced.

I thank the three Appeal Court Judges for considering my appeal and for offering such a clear, courageous and potentially far-reaching adjudication. The wisdom of their ruling is revealed in their appreciation of how good journalism operates, how the typical newspaper reader is able to apply common sense, the meaning of scientific evidence and the importance of debating matters of public interest.

This is not, however, the end of the story. My own case continues and could last for another two years. And there other ongoing libel cases, including one in which the eminent consultant cardiologist Dr Peter Wilmshurst risks bankruptcy for raising concerns about the data relating to a new heart device. I asked Peter why he is fighting on in the face of potentially being destroyed and says it's simple. It's my duty as a doctor to speak out on matters where I have a serious concern, and I won't let the libel laws shut me up.

What you need to remember is that many doctors are not so brave, understandably so, so they are frightened to speak out for fear of being sued for libel and subsequent bankruptcy. We cannot continue to have a society where doctors and scientists are gagged and intimidated.

When people think about the libel laws they think about celebrity tittle tattle and salacious gossip, but the libel laws have a far more wide-ranging impact, and one that seriously damages society.

It affects:

Newspapers that cover serious issues,
local newspapers,
academic journals,
health journals,
blogs,
biography,
human rights groups
and so on.

And critics of libel reform will say, but this is not a big problem because there are so few libel trials, but

What about the number of libel claims that are settled out of court, because the fear of a libel trial scares journalists into silence.

What about the number of articles that are self-censored because the journalist, editor, or in-house lawyer is scared of libel.

What about all the articles that never get commissioned for fear of a libel suit.

And most weirdly of all, there are academic papers, that editors would like to remove, but they are scared to retract them in case the authors sued for libel.

So perversely, good papers are not being published because of libel, and bad papers are not being removed because of libel.

The libel reform campaign is not about my right as a science journalist to write what I think it is important, but it's about your right as readers to read what is important, whether that is about alternative medicine, whether it's about big pharmaceutical companies, whether it's about human rights abuses.

At the moment we have the most oppressive libel laws in the free world, we export that injustice to the rest of the world, and that's the think we should be most ashamed of.

And so the battle for libel reform continues. The ridiculous and exorbitant costs already racked up in my case show that English libel is horrendously expensive. A recent report from Oxford University showed that English libel cases typically cost on average over one hundred times more than in mainland Europe. Typically, the cost of the trial is wholly disproportionate to the size of damages involved. Indeed it is widely acknowledged that these excessive costs can be used by rich and powerful corporations. In short we need to drastically cut the costs of libel in England.

There is also a clear need for a robust statutory public interest defence, so that the public can have access to healthy and open debate. We need to restrict the ability of large corporations to bully small publications and lone journalists. And we need to bring a halt to libel tourism, a practice which provides a haven for Russian oligarchs and Saudi billionaires, which silences free speech around the world and which brings shame on the English justice system.

John Whittingdale, chair of the Commons select committee that commented on libel reform reminded the mass lobby of Parliament that our libel laws are now so notorious that the Americans are blocking their impact on American citizens. Moreover American publications are considering no longer putting their material online in the UK or offering hard copies in the UK for fear of libel,

With the general election just a few weeks away, I want to ask what the main parties plan to do about libel reform? The Lib Dems are committed to radical libel reform in their manifesto, but what about Labour and Conservatives? Jack Straw has offered encouraging words about libel reform, but will it be in the Labour manifesto. The Conservative party this month, for the first time, seemed concerned about libel reform, but will it be in the Conservative manifesto. Or perhaps the main parties do not see free speech, scientific debate and the public's right to information on important issues?

Politicians should take note that I am determined to do whatever I can to achieve reform of the libel laws. Whichever government we have in a few weeks time, I will battle

tenaciously until it implements rapid and radical reform of English libel laws. Current and future ministers can ask the BCA about my tenacity and ability to fight a battle over legal issues. More importantly current and future ministers should take note of army of supporters backing libel reform: Stephen Fry, Dara O Briain, Nobel Laureates, the Astronomer Royal, the Poet Laureate, the form Poet Laureate Andrew Motion, The Amazing Randi, Ricky Gervais, Robin Ince, BIG LIBEL GIG, Sir Tom Stoppard, Sire David Hare, Michael Frayn, Baroness Helena Kennedy, the Editor of the BMJ, the editor of Nature, the editor of New Scientist.

Moreover, the campaign and my own case has been supported by SENSE ABOUT SCIENCE, particularly Tracey Brown and Sile Lane, English PEN, Index on Censorship, my legal team have clearly played a crucial role, Robert Dougans my solicitor, William McCormick and Adrienne Page my barristers.

The bloggers have been amazing in their support of my case and libel reform – **Jack of Kent has been the most prolific and insightful blogger. David Allen Green has also been a huge support throughout the last two years. Other supporters have been the skeptics, rationalist and scientific community – very wide base of support Including baby Hari Including wife**

Political support
Evan Harris
Susan Kramer
David Davies
Peter Bottomley
Denis McShane
Paul Farrelly

The majority of MPs want libel reform, the Commons Select Committee wants libel reform, the reaction to the Ministry of Justice working group recommends libel reform – the message clear – put libel reform in your manifestos and make it a priority for the next Parliament.