

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC204982/14/09/2017

Date First Issued:

14/09/2017

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

20/10/2017 (Further and Better Particulars Required.)

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mrs Retailer and Smiths News (SN), 4 Acre Road, Reading, RG2 0SU. This complaint concerns alleged failure by Smiths News to deliver paperwork on time thereby causing returns documentation to be submitted too late for the appropriate credit to be given.

In her originating undated complaint Mrs Retailer points out that her premises are closed on a Saturday and a Sunday meaning that her magazines and supporting paperwork are delivered on Monday of each week. She alleges that on eleven occasions between 31/07/2017 and 30/08/2017 she did not receive her paperwork and that magazines had been received that she was unable to obtain credit for as she was claiming out of time.

SN acknowledged and responded to the Stage 2 Complaint on 04/10/2017 and apologised for the persistent problems. It undertook "to make sure your paperwork is delivered to you on Monday morning." It also provided credit for two copied of 'Land Rover World' as had been requested by Mrs Retailer. Unfortunately, SN has failed to submit a response to Mrs Retailer.'s Stage 3 Complaint.

Mrs Retailer. was asked to provide further and better particulars of her claim as follows:

1. Provide a copy of the Stage 2 decision received from Smiths News dated or received on 5th October 2017.
2. Specific details of each alleged loss as explained in the 'Guidance Notes for Retailers' pages 4 and five.

Having considered the evidence that has been submitted, I adjudicate as follows:

1. Unfortunately, SN has failed to submit a Stage 3 Wholesale Statement of Case or any other evidence relevant to this case.
2. I did obtain a copy of SN's Stage 2 decision from Mrs Retailer.
3. Mrs Retailer. did supply a considerable volume of supporting documentation, but the majority of it related to alleged incidents occurring after the Stage 2 decision i.e. 04/10/2017.

4. As Independent Arbitrator my function is to review the decision taken by SN at Stage 2 of the Press Distribution Charter (PDC) complaints process, accordingly further incidents of alleged service failure that occurred after 04/10/2017 cannot be considered by me and must form the basis of a fresh PDC complaint by Mrs Retailer.

5. Mrs Retailer. has quite clearly suffered SN service failures. In the period 31/07/2017 - 11/09/2017 she details 11 separate incidents of missing paperwork. On a number of occasions Mrs. S. suffered missing credits as a result of the delay in submitting returns documentation.

6. In its Stage 2 Decision SN made no attempt to defend its poor service and undertook "to make sure your paperwork is delivered to you on Monday morning."

7. As Centaur News does not open on a Saturday or Sunday it is easy to see how Mrs Retailer.'s paperwork gets mismanaged. However, there can be no doubt that SN has a PDC obligation to supply paperwork in a timely manner and it should not be outside of its skill sets to be able to achieve this.

8. Mrs Retailer.'s complaint is upheld and SN is instructed to satisfy its undertaking outlined in (6) above.

9. Mrs Retailer. does not detail any loss that she has suffered as a result of SN's service failure. Instead she seeks "compensation" for:

a) Stress.

b) A telephone bill explaining that the shop is closed on Saturday.

c) Magazines charged again even though not received.

d) Delivery charge for a very poor service.

10. The PDC Complaints Process does not award 'compensation'. I am able to award restitution for proven loss on the sale of newspapers and magazines.

11. Mrs Retailer. does indicate that she has suffered loss on the sale of magazines, but I have no detail of that loss.

12. Mrs Retailer. must now prepare a schedule of her losses caused by the SN service failures between 31/07/2017 and 11/09/2017. Once completed, she must submit the same to SN for settlement. SN must settle the same unless there is a dispute, in which case the issue should be referred back to me for further adjudication.

Neil Robinson

Signature of Arbitrator: _____

Date: 1st November 2017

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

02/11/2017

Date Independent Arbitration Decision sent to Wholesaler & Retailer:

03/11/2017