

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC/225664/1406/2016

Date First Issued:

11/07/2016

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

19/07/2016

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr. Retailer and Smiths News (SN), IP3 Celtic Way, Celtic Way, Celtic Lakes, Newport, NP10 8BE. This complaint concerns alleged failure by Smiths News to fulfil the retailers' orders in accordance to Press Distribution Charter Standard 4.1 and failure to make good shortages in a timely manner.

Mr. Retailer complains that he has suffered constant packing errors and shortages in delivery of newspapers. He further raises as an issue the length of time it has taken SN to rectify his claims. Mr. Retailer has submitted a schedule of under packs, claims and the times taken to rectify. He seeks written assurances in relation to his quality of delivery and that missing copy will be delivered within two hours. He also seeks a refund of one weeks carriage charge to compensate him for the inconvenience suffered and costs of re-delivery.

Unfortunately SN has failed to submit a Statement of Case that properly responds to the complaint, however it does apologise for the shortfall in its service. It has undertaken to review its current practices on dispatching claims with a view to improving timeliness. It has also instigated spot checks on Mr. Retailer's packs in order to monitor the contractor's packing abilities and accuracy. An exercise is also being undertaken to ensure that drivers are fully trained in order to help reduce packaging and delivery errors.

Having considered all of the evidence submitted to me, I adjudicate as follows:

1. As Independent Arbitrator I have to make a judgement as to whether the issue under review has been properly dealt with at Stage 2 of the Press Distribution Charter (PDC) complaints process.
2. The scope of my jurisdiction is limited to determining whether a wholesaler, distributor or publisher has failed to meet one of the standards set out in the PDC. I am not at liberty to go beyond that.
3. There can be no doubt that Mr. Retailer has suffered difficulties in relation to incomplete supply due to packing errors and delay in making the same good. Indeed SN has recognised this and apologised for the "short fall in service".
4. SN has also taken steps to correct some of the problems by reviewing its packing process to understand the cause of errors and studying its current practice on dispatching claims. It is to be hoped that such remedial measures are successful and Mr. Retailer's problems cease.

5. In his submission Mr. Retailer seeks written assurances from SN concerning the cessation of packing errors and the timeliness of rectification. On this last point I am duty bound to highlight the fact that the PDC does not require second deliveries to be made within a two hour window.

6. I do not see any useful purpose being served demanding the written assurances that Mr. Retailer seeks as mistakes and delays are most likely to continue. SN has indicated that it is taking steps to rectify the problems Mr. Retailer has experienced and I suggest that time should now be allowed in order to ascertain whether there is any improvement in service levels. Mr. Retailer is free to make a further complaint if he still experiences problems.

7. I find in favour of Mr. Retailer

8. I am unable to make any award in relation to recovery of carriage charges.

9. In circumstances where the SN was at fault for non-delivery of product or under-allocation of product it must reimburse Mr. Retailer for lost margin on the sale of that product. If the lateness necessitated the redelivery of HND copy SN will reimburse Mr. Retailer 55p per copy redelivered.

10. Mr. Retailer to calculate the total amount of restitution by applying (9) above to his spread sheet entitled "Recent Underpacks From Smiths News" and submitting the details to SN for payment.

11. SN to make payment within 14 days.

12. Should SN consider that publishers have been responsible for the issues it may refer that part of Mr. Retailer's claim to them. SN is reminded that publisher lateness occurs if it arrives:

a) Cut-off minus 15 minutes, or

b) where a publisher has given reasoned formal notification to a wholesaler that cut-off time cannot be met, the average arrival time for a title over a 10 week day specific period.

13. Should there be any issue arising, the matter to be referred back to me for further adjudication.

Neil Robinson

Signature of Arbitrator: _____

Date: 29th July 2016

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

30/07/2016

Date Independent Arbitration Decision sent to Wholesaler & Retailer:

01/08/2016

