

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC233607/160418 v2

Date First Issued:

05/07/2018

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

05/07/2018

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr Patel and Smiths News (SN), Punchbowl Park, Cherry Tree Lane, Hemel Hempstead, HP2 7JA. This complaint concerns alleged failure by Smiths News to deliver all titles and their appropriate sections, no later than the Retailer Delivery Time (RDT), or Scheduled Delivery Time (SDT), for the day of sale contrary to Press Distribution Charter (PDC) Standard 2.1.

By my adjudication dated 29th May 2018 I determined that:

1. Mr Retailer was entitled to restitution as follows:

a) In circumstances where the wholesaler was at fault for the non-delivery of products or under-allocation of product the wholesaler would reimburse the customer for lost margin on the sale of that product.

2. As Mr Retailer had not furnished me with particulars of his loss, he was directed to submit full details of his restitution claim to SN, having proper regard to the adjudication. SN was directed to consider that claim, having proper regard to this adjudication. SN was to have made restitution payments accordingly and, if there was any dispute between the parties, the matter was to be referred back to me.

3. If Mr Retailer failed to provide SN with evidence of proven loss on sales of newspapers and magazines within 30 days of the date of the adjudication, restitution did not need to be considered by SN.

4. As the parties have failed to agree on the restitution payment the issue has been referred back to me.

Having carefully considered the evidence before me, I adjudicate as follows:

1. Mr Retailer has not complied with the adjudication as he has not set out full details of his lost margin on the sale of newspapers and magazines.

2. Mr Retailer must, within seven working days, provide SN with a 5-column list for each date that was the subject of his claim showing: title name, quantity, cover price, RDT/SDT time and actual delivery time. If he is claiming restitution for unsold copy; a summary of the amount claimed and loss suffered, a copy of the Returns Note showing the titles/number of copies returned on the subject date and a copy of the last three previous Returns Notes for the equivalent days.

3. SN must consider the claim in accordance with the adjudication and, if satisfied as to content, settle the same. If there is a further dispute, the matter to be referred back to me for further adjudication.

Neil Robinson

Signature of Arbitrator: _____

Date: 9th July 2018

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

09/07/2018

Date Independent Arbitration Decision
sent to Wholesaler & Retailer:

13/07/2018