

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC200367/26/01/2015

Date First Issued:

26/01/2015

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

19th February 2015

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr Retailer and Smiths News, Brailsford Way, Chilwell Meadows Business Park, Nottingham, NG9 6DH. This complaint concerns alleged failure by Smiths News to deliver all titles no later than the Retail Delivery Time (RDT) in accordance with Press Distribution Standard (PDC) 2.1.

Mr. Retailer claims that on 22/01/2015 The Sun, The Times and the Daily Telegraph were on a publisher re-run and were not delivered to him until 07.05. As a result of the late supply 315 newspapers had to be delivered over a wide area by adult staff which involved additional cost. On 23/1/2015 The Daily Star and Daily Express were delivered to him at 07.20 necessitating 57 newspapers to be delivered separately at additional cost. Mr. Retailer claims £0.55 per copy in restitution.

Smiths News responded to Mr. Retailer's Stage 2 complaint by letter dated 30th January 2015 stating that Smiths News timeliness of delivery to a retailer is determined by the time that it receives supply from the publisher and that where a publisher fails to meet its 'cut off' time, the wholesaler is forced to re-run to its customers. In these circumstances, it declined to make a restitution award to Mr. Retailer.

Having considered all the evidence before me in this case, I adjudicate as follows:

1. I have not received any indication from either party as to the Retail Delivery Time or Scheduled Delivery Time. However, there does not seem to be a dispute as to the fact that on the dates mentioned delivery was after the RDT/SDT.
2. Express Newspapers are not members of the News Media Association and, accordingly, not party to the Press Distribution Charter or its complaints process. I cannot therefore consider the instance of lateness on 23rd January 2015. The complaint needs to be referred to the publisher concerned direct.
3. Smith's News cannot be held responsible for the acts or omissions of a publisher. It was correct to deny responsibility, however its Stage 2 response letter dated 30th January 2015 did not go far enough. Smith's News should have provided Mr. Retailer with the contact details of the publishers concerned and advised him to pursue his complaint against them. Alternatively, Smiths News could have forwarded the complaint paperwork to the publishers concerned and asked them to deal with it after notifying Mr. Retailer as to this course of action.

4. The publishers concerned have not had an opportunity to defend the complaint made against them and this is contrary to the rules of natural justice.

5. I dismiss this complaint and instruct Smiths News to forward all the papers in the case to the appropriate publisher/s for consideration at Stage 2.

6. In an attempt to manage Mr. Retailer's expectations I must point out to him that at the time of the article announcing the £0.55 per copy restitution payment for lateness, the body representing the newspaper publishers, the News Media Association, had not approved or adopted the payment. It was agreed in principle by the NMA on 12th February 2015 and thus the publishers concerned in this complaint are not bound by it as the instance complained of occurred on 22/01/2015.

Neil Robinson

Signature of Arbitrator: _____ (email)

Date: 20th February 2015

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

20/02/2015

Date Independent Arbitration Decision
sent to Wholesaler & Retailer:

22/02/2015