

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC/ 125912/290512

Date First Issued:

29th May 2012

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

3rd July 2012

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr. Retailer Wakefield and Menzies Distribution, Sheffield. This complaint originally concerned failure to deliver newspapers, missing magazine bundles, missing titles and absence of credit, but has subsequently escalated as a result of Menzies Distribution's failure to process the formal complaint in accordance with the terms of its own 'Our Service Pledge' and the complaint resolution process of 'The Press Distribution Charter'.

On 26th May 2012 MD failed to deliver newspapers and magazines to Mr. Retailer or collect his returns. Mr. Retailer made a number of telephone calls to MD chasing his missing supply and eventually received it at 9.20 am. Mr. Retailer completed a "restitution form" and sent it to MD on 27th May 2012. On 1st June 2012 Mr. Retailer failed to receive his supply again and it eventually arrived at 8.30 am. On both occasions Mr. Retailer had to close his shop in order to make deliveries to his HND customers.

On 19th June 2012 Mr. Retailer was a magazine bundle missing which required him to make a number of calls to MD over two days. On 20th June Mr. Retailer was informed that his "restitution form" for the original non delivery had not been received and he was asked to complete another one and resubmit it.

On 23rd June 2012 Mr. Retailer had a number of titles missing from his supply. Again, he made a number of calls to MD in order to secure the missing titles.

On 26th June 2012 Mr. Retailer queried why he had not received credit for missing titles that MD was well aware of.

For its part MD suggests that there is some confusion over Mr. Retailer's Retail Delivery Time (RDT) which it claims is 6.30 am although no evidence of this was submitted. The RDT does not seem to be material here as both the failures to deliver resulted in an eventual delivery time well past 6.30 am.

MD has admitted that it failed to make an initial delivery on 26/5/2012 and 1/6/2012 and points out that on both occasions it was due to vans running overweight. On such occasions management instructs that supplies be removed from the van in such a way that the 'least worse' scenario is achieved, with supplies to later opening retailers being off loaded, as had happened in the incidents being complained off.

MD accepts Mr. Retailer's claim for the missing magazine parcel on 19/6/2012 and has arranged the appropriate credit to his account.

MD believes that missing titles on 23/6/2012 were due to driver error although it does not advise that credit has been given for the missing titles.

It is accepted that MD failed to respond to all of Mr. Retailer's telephone calls and apologises for this. However, it does point out that the problem was, in part, due to Mr. Retailer's misunderstanding of the role of one of its staff.

MD accepts that it failed to respond to Mr. Retailer's complaints within the prescribed timescales and sites administrative and changes in the role and responsibilities of several key members of staff.

After admitting to all of the separate items forming Mr. Retailer's complaint, MD awarded him £55 restitution. Mr. Retailer believes this amount to be insufficient.

Having considered all of the evidence before me, I find that MD did, on all the occasions cited, fail to meet the standards set out in its own 'Our Service Pledge' and 'The Press Distribution Charter' to which it is a signatory. It is recognised that MD admits to this, apologises for it and has awarded restitution.

Whilst I understand the logistical difficulties posed to MD by the increasing size and weight of newspapers, it has to recognise its responsibilities to retail customers. It is pleasing to note new technology that will allow advance transport planning thereby avoiding such situations is to be implemented soon, but I find it difficult to accept that, in the meantime, the same retail customers are disadvantaged on the basis that they open later. I respectfully suggest that MD takes steps to avoid repetitive delivery failures to the same retailer.

On each occasion Mr. Retailer suffered a supply failure he made strenuous efforts to contact MD and secure his proper supply and it is unfortunate that MD failed to respond to all such queries. However, it is accepted that, in part, this was due to changes of staff responsibility although I think somebody at MD should have followed up Mr. Retailer's phone calls.

Unfortunately, I cannot accept that administrative blunders and changes to the role of staff constitute justification for MD's failure to deal with Mr. Retailer's complaints. Mr. Retailer has suffered a number of service failures and insufficient attention has been paid to his plight. Under MD's own 'Our Service Pledge' and the industry's 'Press Distribution Charter' there is a process laid down enabling retailers to make formal complaint for a failure to meet standards. It is imperative that MD follows the procedures, thereby enabling retailers access to a process that will lead to correction of a problem or, if appropriate, restitution.

Mr. Retailer has failed to supply me with details of his loss and, accordingly, I am unable to assess whether he has been properly restituted for his losses. Restitution should restore to a retailer any loss directly resulting from a failure to achieve a standard that is determined to have taken place. The amount of restitution is limited to an amount that restores the retailer to the position he/she would have been in had the failure to meet the standard not taken place. Any restitution ordered should only be for losses arising in relation to sales of newspapers and magazines over the period covered by the complaint. In this case I believe that Mr. Retailer should receive the lost margin on those titles he was unable to sell due to lateness of delivery or failure to supply (taking into account alternative sales achieved), the cost of any staff required to make a second delivery or substitute in the shop while Mr. Retailer was out delivering and 45p per mile for any second delivery necessitated by the service failures. Having regard to the above, if Mr. Retailer still thinks that the MD restitution of £55 is insufficient, he should submit the detailed claim to me for further consideration.

Signature of Arbitrator: Neil Robinson (email)

Date: 10th July 2012

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

10/7/2012

Date Independent Arbitration Decision sent to Wholesaler & Retailer:

11/07/2012