

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC/126514/100714

Date First Issued:

10/07/2014

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

16/7/2014

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr Retailer, and Menzies Distribution, Europa Drive, Sheffield, S9 1XT. This complaint concerns alleged failure by Menzies Distribution to provide a response to various restitution claims in accordance with Menzies Distribution's 'Customer Service Pledge Second Edition'.

Mr.Retailer refers to an instance on 11/7/2014 when 10 copies of 'The Daily Star' were not delivered. He understands that he will be credited for the missing copy, but raises issues of other loss including ancillary sales, potential loss of customers, the purchase cost of replacement copy he had to acquire in order to supply his customers and the loss of his contractually agreed margin on the 10 copies not sold. He supports his claim with various paperwork which purports to demonstrate other similar instances which occurred in January, March and June of this year.

Menzies Distribution for its part point out that Mr. Retailer did not follow proper process in relation to the 11/7/2014 instance of non-supply in that the originating complaint did not get forwarded to its local depot rather via the PDRP Administrator. Furthermore, it has no record of any previous restitution claims. Menzies Distribution has investigated the complaint under review and has found that the cause of the failure to supply was a publisher double run and accordingly it needs to be referred to the publisher concerned.

This case has come before me as a result of Mr. Retailer contacting the PDF Helpline with a complaint that Menzies Distribution had ignored claims for restitution which he had submitted following lateness of supply or failure to supply.

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

1. There are two conflicting sets of evidence concerning the restitution claims. Mr. Retailer has submitted 'Restitution Forms', invoices he has issued to Menzies Distribution for restitution and Customer Complaint Forms. Unfortunately, some of these are undated by him and Menzies Distribution's Restitution Forms have no provision for a date on them. However, Menzies Distribution maintains that some paperwork was not sent to his local depot as per the due process and it does not have a record of any historical claims. I am unable to determine whether the claims were properly made or received by Menzies Distribution however, within the evidence submitted to me, Menzies Distribution does point to an error with one of its mail boxes and I consider that this was probably the cause of Menzies Distribution failure to respond to Mr.Retailer' s emails. It is noted that the PDRP Administrator received copies of three of Mr. Retailer' s emails and accordingly I must find that Menzies Distribution did fail to meet Standard 9.5 on three occasions.

2. The claims purported to be made in January and March of this year cannot be considered at this late date.

3. The claim made on 11/7/2014 in relation to the 'Daily Star' re-runs appears to me to be neither serious enough for a Press Distribution Charter claim and does not fall into the industry definition of persistent. In this case the claim may be rejected by the wholesaler or publisher. Having said this, I understand that the claim has been referred to the publisher for consideration.

4. Mr. Retailer's claim for restitution in respect of instances that occurred between 12th June and 15th June should now be considered by Menzies Distribution.

5. Mr. Retailer must understand that there are limitations on the restitution awarded under the Charter. He can only claim for what he has actually lost as a result of the failure to meet a standard. He will not be able to claim for loss of profit on ancillary purchases or his own time spent doing second deliveries. He will be able to claim for loss of margin on the copy not sold, petrol for any second deliveries and the purchase price of any copy he had to purchase in order to satisfy HND customers.

Signature of Arbitrator: Neil Robinson (email)

Date: 22nd July 2014

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

22/7/2014

Date Independent Arbitration Decision sent to Wholesaler & Retailer:

29/07/2014