

Press Distribution Charter

Stage 2 - Independent Arbitration Decision

PDC Reference Number:

PDC/133266/210621

Date First Issued:

21.06.2021

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

25/08/2021

Independent Arbitration Decision

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr. H. and Menzies Distribution Limited (MD), 10/11 Brampton Trade Park, Eastbourne, BN22 9BN. This complaint concerns alleged failure by MD to deliver all titles and their appropriate sections no later than the Retailer Delivery Time or Scheduled Delivery Time for the day of sale contrary to Part 1 of its 'Customer Service Pledge', Fourth Edition.

Mr. H. complains (20/06/2021) that for the last 12 months his papers have been delivered late on a regular basis. Unfortunately he has failed to provide a detailed schedule of the alleged service failure or the consequential losses on sales of newspapers and magazines.

By response dated 02/07/2021 MD maintained that it had been experiencing difficulties with bunched publisher deliveries and lateness of the same. It did however accept some of the 'blame' for late delivery. MD pointed out that it had recently recruited two new members of staff to "fill the gaps" and are always actively looking to recruit others.

By Step 2 Arbitration - Wholesaler Statement of Case dated 25/08/2021 MD reiterated its position as stated in its response above. It submitted the six weeks actual delivery times between 15/07/2021 and 25/08/2021 which demonstrated that it delivered late to Mr. H. on 47 occasions albeit in a few instances of a few minutes. MD submitted a Wholesale Fast Track Restitution Form and invited Mr. H. to complete the same in relation to the loss of sales and the additional costs of Home News Delivery. MD apologised for the inconvenience to Mr. H. and his customers.

Having considered all of the evidence submitted in this case, I adjudicate as follows:

1. MD has agreed with Mr. H. concerning late delivery to his store and the data supplied by MD points to the service failures being persistent and in several cases serious although this was for a period subsequent to the originating complaint.
2. The Press Distribution Complaints Process cannot be used if the incident complained of occurred more than three months ago. It follows that I can only consider instances of late delivery that occurred in the period three months prior to the date of the originating complaint i.e. 20/06/2021.
3. For the avoidance of doubt and for the information of both parties I take this opportunity to set out the restitution payable in cases of late supply and missing copy as follows:

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

b) In circumstances where the wholesaler was at fault for late delivery of products and the lateness necessitated the redelivery of HND copy the wholesaler will reimburse the customer 55p per copy redelivered, with a minimum award of £5.50.

4. If MD considers that incidents of lateness have been caused by late inbound publisher deliveries it should pass the Stage 2 Complaint Forms onto the relevant account managers of the publisher /s concerned.

5. Publisher lateness for newspapers is defined as follows:

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.

For magazines There is an agreed magazine specific criteria for lateness which provides that "Magazines will be delivered in time for day of sale".

6. Mr. H. must now complete a MD Wholesale Fast Track Restitution Form in respect to his claim. Such claim to be for a period 20/04/2021 - 20/06/2021. Once completed, he must submit the same to MD for settlement. MD must settle the same unless there is a dispute, in which case the issue should be referred back to me for further adjudication.

7. MD indicated to me that it has taken steps to remedy this distribution problem although by its own data it is not managing to meet Mr. H.'s RDT very often. I sincerely hope that deliveries to Mr. H. are now in a timely manner.

Neil Robinson

Signature of Arbitrator: _____

Date: 27th August 2021

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

27/08/2021

Date Independent Arbitration Decision sent to Wholesaler & Retailer:

27/08/2021