

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC200192/01/07/2016

Date First Issued:

18/08/2016

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

31/08/2016 further and better particulars requested.

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr. Retailer and Smiths News, Brailsford Lane, Chillwell, NG9 6DH. This complaint concerns alleged failure by Smiths News to deliver newspapers and magazines in a timely manner in accordance to Press Distribution Charter (PDC) Standard 2.1 and fulfil the retailers' orders in accordance to PDC Standard 4.1.

Mr. Retailer submitted various paperwork claiming to support his complaint of historical lateness of supply and failure to fulfil magazine orders. On 18/08/2016 the PDRP Administrator forwarded Mr. Retailer a Stage 3 Complaint form to complete and pointed out to him that it needed to be completed and returned to her within 7 days. On 30/08/2016 the PDRP Administrator received a request from Mr. Retailer for extra time to complete and return his Stage 3 Complaint form. He was granted an extension of 24 hours. On 31/08/2016 the PDC Administrator duly received the completed Stage 3 Complaint form. Unfortunately, the complaint form and supporting documentation did not represent a coherent complaint and, furthermore, related to alleged incidents that had occurred outside of the three month time limit that is placed on PDC complaints.

On 31/08/2016 I requested further and better particulars from Mr. Retailer seeking sufficiently structured detail to enable me to understand the case, the remedy he was seeking and, if restitution was being sought, a schedule of the loss he was claiming for. It was also pointed out to Mr. Retailer that the PDC Complaints Process can only be used to consider complaints regarding incidents that occurred within three months of the initiating complaint. Mr. Retailer was asked to respond by Monday 5th September 2016 which he failed to do. On 13/09/2016 Mr. Retailer contacted the PDRP Administrator to request an extension of time.

On 30/08/2016 SN forwarded various paperwork to the PDRP Administrator. The submissions did not contain a completed Wholesaler Statement of Case Form and on 31/08/2016 the same was requested from SN within seven days. The request for further and better particulars has not been complied with.

Having considered the submissions before me I adjudicate as follows:

1. Both parties have failed in their respective obligation under the PDC complaints process.

2. It is up to the retailer making the complaint to set out a coherent case and support that case with evidence. Mr. Retailer. has failed to do so and furthermore ignored a request for further and better particulars. For this reason alone his case must fail.

3. Notwithstanding point 2. above, on further examination of the paperwork in front of me it is clear that the complaints are historical. Under the PDC complaints process there is a three month time limit applied prior to the originating complaint. The issues Mr. Retailer complains about occurred between October 2015 and March 2016 - well outside of the time limit.

4. I note that SN has agreed to pay restitution to Mr. Retailer for loss of profit margin on the titles complained about amounting to £25.78. Furthermore, to make a payment to Mr. Retailer. of two weeks delivery service charge amounting to £97.26. I trust that these payments have been made to Mr. Retailer If not, I suggest that they will be as soon as possible.

5. For the record, the PDC complaints process will only award restitution for losses that have actually occurred as a result of a failure to meet a PDC standard. I am unable to make a restitution award that would cover potential future losses arising from loss of customers.

Neil Robinson

Signature of Arbitrator: _____

Date: 14th September 2016

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

14/09/2016

Date Independent Arbitration Decision
sent to Wholesaler & Retailer:

14/09/2016