

## Press Distribution Charter

### Stage 3 - Independent Arbitration Decision

**PDC Reference Number:**

PDC20093512032018

**Date First Issued:**

09/03/2018

**Name of Arbitrator:**

Neil Robinson

**Date complaint sent to Arbitrator:**

27/03/2018

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr Retailer and Smiths News (SN), Unit 45, Elmdon Trading Estate, Bickenhall Lane, Solihull, Birmingham, B37 7HE. This complaint concerns alleged failure by SN to deliver all titles and their appropriate sections, no later than the Retail Delivery Time, or Scheduled Delivery Time, for the day of sale contrary to Standard 2.1 of the Press Distribution Charter.

Mr Retailer Complains that 28/02/2018, 04/03/2018, 07/03/2018, 08/03/2018 and 09/03/2018 his news delivery was late. He further complains that on 02/03/2018 and 03/03/2018 he received no delivery at all due to adverse weather conditions, although he maintains that the weather was not that bad and 'Daily Express' and 'Star' were delivered as well as bread and milk. Mr Retailer does not consider that he should have to pay a week's Delivery Service Charge when there is no service or poor service. Mr Retailer has forwarded a letter from SN (21/07/2017) clearly stating that his RDT is 05.40. Mr Retailer lodged a Press Distribution Charter Stage 2 Complaint on 09/03/2018.

SN does not deny the substance of the complaint although cites Mr Retailer's RDT as 06.15. It considers that the matter has been resolved with Mr Retailer and that it has offered him one week's Delivery Service Charge by way of restitution which was accepted.

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

1. Mr Retailer has an RDT of 05.40 as advised to him by letter dated 21/07/2017.
2. In relation to the non deliveries on 02/03/2018 and 03/03/2018 I am prepared to accept that adverse weather conditions caused the failure to deliver and, as such, was beyond the reasonable control of SN. Obviously different products have different routes to any given point which can account for the fact that some product gets through while others don't.
3. On the days when delivery was late Mr Retailer is entitled to restitution 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 Mr Retailer is not happy with one week's Delivery Service Charge as restitution in this matter, he must prepare a schedule of his losses caused by the SN service failures on 28/02/2018, 04/03/2018, 07/03/2018, 08/03/2018 and 09/03/2018 in accordance with point (3) above. Once completed, he must submit the same to SN for settlement. SN must settle the same unless there is a dispute, in which case the issue should be referred back to me for further adjudication.

*Neil Robinson*

Signature of Arbitrator: \_\_\_\_\_

Date: 17th April 2018

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

17/04/2018

Date Independent Arbitration Decision sent to Wholesaler & Retailer:

18/04/2018