

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC/20677109/04/2013

Date First Issued:

14/08/2013

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

16th August 2013. Further & better detail requested by Arbitrator

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Retailer, Birmingham and Smiths News, Unit 45, Elmdon Trading Estate, Bickenhill Lane, Solihull. This complaint concerns an alleged failure by Smiths News to deliver copies of 'The Sunday Times' Supplement on 4th August 2013.

The retailer has made the Stage 3 Press Distribution Charter complaint because he claims that a Stage 2 Complaint Form was completed by him and forwarded to Smiths News, but that it was subsequently ignored. The basis of the originating complaint was as stated in the opening paragraph of this adjudication however there was also an allegation of "persistent problems" and a customer service issue.

For its part in the wholesaler's response, Smiths News made no mention of repetitive supply problems to the retailer or the customer service issue. It maintained that credit had now been given for the specific shortage on 4th August, supplies were now being subjected to quality assurance checks and the retailer was happy not to take the complaint any further.

In view of the lack of detail in the originating complaint concerning persistent problems and the customer service aspect of the complaint, I requested further and better particulars from the retailer. I further directed that any response from the retailer should be directed to Smiths News for a further response.

As a result of my request for further and better particulars I have received, via the NFRN, detail of a number of issues raised by the retailer from 11th February 2013 to 18th August 2013, the retailer detailed claims history from Smiths News and three further instances when the retailer was 'compensated' that mysteriously do not appear on Smiths News's claims history. I needed to construct a matrix of all the dates submitted which is available on request. In total it would appear that there are 26 issues that are relevant to this case.

I have not received any further and better particulars on the customer service issue from the retailer or Smiths News. I understand from the Press Distribution Review Panel Administrator that the retailer has submitted a further Stage 2 Complaint to Smiths News.

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

1. By its own admission Smith News did fail to deliver 'The Sunday Times' Supplements to the retailer on 4th August 2013.
2. Unfortunately, of the 26 issues that have been submitted to me by both parties, only six are mutually recognised. However, Smiths News has identified 16 days between 11th February 2013 and 18th August 2013 when supply issues occurred with the retailer which leads me to conclude that the retailer has suffered persistent problems as per his originating complaint.
3. Neither the retailer or Smiths News has provided me with any detail pertaining to the alleged customer service issue and, accordingly I am unable to adjudicate on this matter.
4. The Retailer has not quantified his loss suffered as a result of Smiths News's failure to meet Press Distribution Charter standards and it would appear that he has received restitution for the service failures experienced. The retailer seems to be more interested in getting service levels up to a satisfactory level. In these circumstances, I will not order Smiths News to make any restitution payments. If I am incorrect, the retailer is free to submit details of any loss that he believes are still due to him and I will consider the matter further.

5. It is apparent to me that the retailer has not received the minimum level of service expected by the Press Distribution Charter and I must insist that the quality assurance checks now in place remain in place until 31st December 2013.

6. I am alarmed by the fact that this is the third instance of completed Stage 2 Complaint Forms going astray at Smiths News. Whilst isolated incidents of misplacing forms can occur, I consider three incidents to be negligence at best.

7. I hereby request that the Press Distribution Review Panel's Administrator forward a copy of this adjudication to the Chief Executive Officer of Smiths News for his consideration.

Date form returned to PDC Administrator:

8/9/2013

**Date Independent Arbitration Decision
Sent to Wholesaler & Retailer:**

08/09/2013