

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC/209425/08082019

Date First Issued:

08/08/2019

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

18/09/2019 - Further and better particulars required.)

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr. Retailer and Smiths News (SN), Lingard Lane, Stockport, SK6 2QT. This complaint concerns alleged failure by Smiths News to deliver all titles and their appropriate sections, no later than the Retailer Delivery Time (RDT), or Scheduled Delivery Time (SDT), for the day of sale in accordance with Press Distribution Charter (PDC) Standard 2.1

By PDC Stage 2 Complaint dated 08/08/2019 Mr. M. alleges that before 21/07/2019 he received his supply of newspapers and magazines between 05.30 and 05.45, but they started arriving late between 21/07/2019 and 28/07/2019. He then experienced an improvement, but it was short lived and he claims deliveries are now always late. He is of the opinion that SN has changed his RDT from 05.30 to 06.15 without agreeing the same with him.

By letter dated 14/08/2019 SN responded to the complaint by advising Mr. M. that it had investigated his complaint between 21/07/2019 and 28/07/2019 and it had been late every day. SN maintained that Mr. M. had an RDT of 06.15 and cited a new driver as the cause of the lateness. SN apologised for the lateness and processed restitution of £141.50 and £20.35 which covered loss of sales and additional Home News Delivery costs. SN also reported that it had changed the route sequence in order to improve Mr. M.'s delivery time.

I sought further and better particulars from each party seeking evidence as to the Mr. M.'s RDT. Mr. M. maintained that he had been a customer of SN for 30 years and in that time he had never reached an agreement with SN to his RDT and has never received a written agreement on his RDT. SN did not supply any evidence to support its contention that Mr. M.'s RDT was/is 06.15. Instead it forwarded me the following statement "I believe Customers informs us of their opening time and the House sets the RDT. So far we have no request from the customer to change his RDT."

Having carefully considered the evidence before me I adjudicate as follows:

1. RDTs and SDTs originated from an industry initiative to maximise sales of newspapers to the end consumers. It was to be achieved by meeting the delivery time needs of consumers and the retailers who supply them, supporting both home-delivered and casual sales. Performance was to be monitored by agreeing and measuring key indicators, transparent to all parties, in areas including delivery times from wholesalers to retailers.
2. The PDC defines the Retail Delivery Time as the time agreed by the wholesaler and retailer as the last time by which it is operationally feasible for the retailer to receive his newspaper delivery.

3. The SDT is given to a retailer where an RDT could not be agreed. The SDT is the time by which the wholesaler is able to deliver to the retailer, based on current arrival times to the wholesale house.
4. The RDT is a time by which it is **agreed** that the retailer has a commercial need for the copies and which is considered by the wholesaler to be operationally feasible. If the wholesaler is unable to agree an RDT with a retailer then the wholesaler will suggest a Scheduled Delivery Time (SDT) i.e. a time by which the wholesaler is able to deliver to the retailer.
5. The retailer's commercial need is based on a number of factors including:
 - Shop opening time
 - Home News Delivery rounds
 - Manual or computerised systems for marking up
 - Casual sales patterns e.g. local shift changes
 - Rounds preparation
 - Weekend versus weekday patterns
 - Delivery times
6. Once the commercial needs of the retailer are established it is for the wholesaler to look at his commercial needs, logistics and the current arrival times at the wholesale house. This will determine whether it is operationally feasible to match the retailer's commercial need.
7. The RDT and SDT are not contractual terms; however they are binding until such time as either party experiences special circumstances which cause a need for a review. This will include a retailer starting home delivery, the opening of a new housing estate near the shop or the changing of the wholesale depot supplying the shop concerned.
8. The wholesaler should enter the agreed time on an 'RDT Agreement Form'. Both the retailer and the wholesaler sign this Agreement and the retailer should keep a copy. Each wholesaler is required to hold a copy of all RDT Agreements. In short, the retailer and wholesaler should have a copy of the original 'RDT Agreement Form'.
9. In this case it is clear that the above mentioned industry agreed procedure has not been followed. It is my opinion that Mr. M. was historically accustomed to a delivery time between 05.30 and 05.45 and assumed that his RDT was 05.30. He quite rightly raised a PDC Stage 2 Complaint when his papers started arriving between 05.39 and 08.12.
10. SN acknowledged that it had failed to provide the standard of service required by the Charter and made restitution payments to him in the sum of £161.85.
11. SN has tried to satisfy Mr. M.'s requirements as to delivery time, including dismissing the driver, and I trust that these endeavours have been successful.
12. I direct that Mr. M. and SN enter into constructive dialogue following the procedure set out above with a view of arriving at a mutually acceptable RDT for Mr. M.

Neil Robinson

Signature of Arbitrator: _____

Date September 18th 2019

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

18/09/2019

Date Independent Arbitration Decision sent to Wholesaler & Retailer:

20/09/2019