

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC223123/060418

Date First Issued:

06/04/2018

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

17/05/2018

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr Retailer and Smiths News (SN), Punchbowl Park, Cherry Tree Lane, Hemel Hempstead, HP2 7JA. 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 contrary to the Press Distribution Charter (PDC) Standard 2.1.

Mr Retailer complains that his news delivery started arriving late before Christmas 2017 and continued thereafter. He complained to SN and was assured that a meeting had taken place with the contractor and measures had been put in place to ensure his RDT was achieved. Delivery continued to arrive late.

By letter to Mr Retailer, SN admitted missing Mr Retailer's RDT thirty three times in two months which it accepted was unacceptable. It had taken steps to remedy the situation and ensure that delivery met Mr Retailer's RDT. It apologised for the inconvenience caused to Mr Retailer and reimbursed him one weeks Carriage Service Charge amounting to £45.06. In its Stage 3 Statement of Case Form SN acknowledges that the service failures continue.

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

1. There is obviously no dispute as to the facts in this case as SN has admitted to repeatedly missing Mr Retailer's RDT.
2. Mr Retailer asks for a solution to his problems and I urge SN to try and reorganise its logistics in order to facilitate Mr Retailer's RDT.
3. Mr Retailer also seeks restitution for his losses and SN advises that "agreed compensation be due."
4. Restitution is about restoring the injured party to what has been lost and any restitution ordered is for proven losses resulting directly from the breach taken over the period covered specifically by the complaint.
5. Mr Retailer has not provided any detail of his loss.
6. Under the PDC Complaints Process the restitution payable in cases of late supply and missing copy is 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.

7. Mr Retailer must now prepare a schedule of his losses caused by the SN service failures. 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: 18th May 2018

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

Date Independent Arbitration Decision sent to Wholesaler & Retailer: