

Press Distribution Charter

Stage 2 - Independent Arbitration Decision

PDC Reference Number:

PDC/224474/290621

Date First Issued:

29.06.2021

Name of Arbitrator:

Neil Robinson B. A. (Law), M.C.I.Arb.

Date complaint sent to Arbitrator:

29/07/2021

Independent Arbitration Decision

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr. P. and Smiths News (SN), Unit 17, Beddington Cross, Croydon, CRO 4XH. This complaint concerns alleged failure by Smiths News to deliver all titles and their appropriate sections, no later than the Retail Delivery Time (RDT), or Scheduled Delivery Time (SDT), for the day of sale contrary to Clause 2.1 of the Press Distribution Charter 3rd Edition.

Mr. P. alleges that he had an issue with late supply on 31/03/21 and, as a result of the delay, HND was delayed and had to be carried out later at significant extra cost. He claimed restitution from SN at the standard rate of 55p per copy for 14 x Guardian, 37 x Mail, 24 x Telegraph, 10 x Express, 8 x 'I' Daily 8 x Mirror and 1 x Star. SN rejected the restitution claim because Mr. P. was not registered for Home News Delivery and refused to pay loss of sales because the value of the claim was less than £5.00.

By letter dated 01/07/2021 SN rejected Mr. P.'s online complaint citing the fact that he was not registered for HND. It offered £1.35 restitution for loss of sales based upon actual sales over the three weeks prior to the service failure.

By email dated 16/07/2021 Mr. P. was requested by me to supply contact details for a random selection of alleged Home News Delivery customers. He failed to do so within the seven-day time limit.

In its Stage 2 - Wholesale Statement of Case dated 29/07/2021 SN maintain that:

"The 55p per copy restitution that has been negotiated relates to situations where the copy has not been received and the retailer has lost sales."

After careful consideration I adjudicate as follows:

1. There is no provision in the Press Distribution Charter that requires a retailer to register with his wholesaler as an HND customer or make HND registration a condition of claiming restitution in cases of late delivery.

2. In Its Stage 2 - Wholesale Statement of Case SN maintain that:

"The 55p per copy restitution that has been negotiated relates to situations where the copy has not been received and the retailer has lost sales."

This is totally erroneous. The Press Distribution Review Panel considered this matter in detail and in its report dated 22/01/2015 provided that:

" The harmonisation of wholesale restitution payments made under the PDC has now been achieved. Under the scheme Menzies Distribution and Smiths News will pay 55p. per copy in order to meet the additional costs incurred by a retailer in the case of late delivery."

3. SN does not deny that it delivered late to Mr. P. on 31/03/2021 nor that Mr. P. had Home News Delivery customers.

4. I find in favour of Mr. P. and direct SN to pay restitution to him at the standard rate of £0.55 per copy.

Signature of Arbitrator: Neil Robinson

Date: 2nd August 2021

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

02/08/2021

Date Independent Arbitration Decision sent to Wholesaler & Retailer:

05/08/2021