

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC/225822/06022019

Date First Issued:

06/02/2019

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

09/03/2019

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr. Retailer and Smiths News (SN), Celtic view, Newport, NP10 8BE. This complaint concerns alleged failure by Smiths News to deliver all titles and their appropriate sections no later than the Retailer Delivery Time or Scheduled Delivery Time for the day of sale contrary to Standard 2.1 of the Press Distribution Charter (PDC).

By PDC Stage 2 Complaint dated 08/02/2019 Mr. Retailer alleges that SN had for some time persistently missed his RDT of 05.15. He opens his shop at 04.30 each day and requires delivery of his newspapers and magazines by his RDT in order to service his extensive Home News Delivery rounds and satisfy his regular early morning customers. He understands that SN's failure to meet his RDT has been caused by the introduction of additional drops to his round in and around Abertillery. Before this action by SN he was receiving supplies between 04.45 and 05.25. He cites 04/02/2019 at 05.40, 05/02/2019 at 05.40 and 07/02/2019 at 05.50 as examples of lateness to support his complaint. He also points out that on 06/02/2018 his supply arrived at 05.20 when the road to Abertillery was closed.

By letter dated 18/02/2019 SN responded to the complaint without directly addressing the complaint. It claimed that it was monitoring Mr. Retailer's delivery times and that "since 11/02/2019 we have achieved your RDT 4 times, missed it by 1 – 3 minutes on 2 occasions which I am sure would be acceptable and we have missed it twice by over 10 minutes." It also advised Mr. Retailer that it was reviewing the time his round left the depot each morning and seeking any other changes that it could make in order to improve actual delivery time to Mr. Retailer SN forwarded a Customer Arrival Report for Mr. Retailer which showed that it had only achieved Mr. Retailer's RDT twice between 18/02/2019 and 07/03/2019 (18 days). SN credited Mr. Retailer's account with one weeks' Delivery Service Charge as a gesture of goodwill.

Having carefully considered the evidence submitted to me I adjudicate as follows:

1. Mr. Retailer clearly has an RDT of 05.15 and SN has amended its distribution logistics without proper attention to Mr. Retailer's RDT. It has added deliveries in and around Abertillery to round 709 which has resulted in delay to Mr. Retailer's delivery time.
2. I am certain that Mr. Retailer seeks correction of the problem rather than small gestures of goodwill and I am pleased to note that SN appear to be seeking ways in which to address the situation.
3. Unfortunately, I do not have the authority to direct SN to make the necessary logistical changes that would result in it meeting Mr. Retailer's RDT.
4. In these circumstances I suggest that Mr. Retailer submits a restitution claim to SN for the occasions when his RDT has not been met 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

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.

5. Mr. Retailer's restitution claim needs to consist of a 5-column list for each date that was the subject of his claim showing: title name, quantity, cover price, RDT/SDT time and actual delivery time. If he is claiming restitution for unsold copy; a summary of the amount claimed and loss suffered, a copy of the Returns Note showing the titles/number of copies returned on the subject date and a copy of the last three previous Returns Notes for the equivalent days.

6. SN must settle the claim unless there is a dispute, in which case the issue should be referred back to me for further adjudication.

7. If Mr. Retailer fails to submit a restitution claim within 30 days SN is entitled to consider this matter closed.

Neil Robinson

Signature of Arbitrator: _____

Date: 11th March 2019

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

11/03/2019

Date Independent Arbitration Decision sent to Wholesaler & Retailer:

11/03/2019