

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC/231102/230313

Date First Issued:

1st June 2012

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

8th June 2013. Further details requested 15th June 2013

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr. Retailer and Smiths News, Unit 45, Elmdon Trading Estate, Bickenhill Lane, Birmingham, B37 7HE. This complaint concerns delivery timeliness.

Mr. Retailer claims that his delivery of product was late during the period 29th May 2013 - 2nd June 2013 contrary to the provisions of the Press Distribution Charter. Smiths News accept late delivery on the above mentioned dates with the exception of 29th May 2013, but claim that the delays were caused by the grouping of inbound publisher deliveries just before cut off time.

Mr. Retailer has been trading for approximately 20 years, apparently without major problems but, since the beginning of the year has been experiencing late delivery. Unfortunately, there seems to be some confusion as to whether Mr. Retailer has a Retail Delivery Time (time agreed by the wholesaler and retailer as the latest time by which it is operationally feasible for the retailer to receive his newspaper delivery) or a Scheduled Delivery Time (given to a retailer where an RDT could not be agreed and based on the time by which the wholesaler is able to deliver to the retailer). Furthermore, historically there is discrepancy as to the actual time of the RDT or STD

What is clear from the evidence supplied by both parties is that agreement was reached this year on an RDT of 05.15 and this was confirmed in a letter from Smiths News to Mr. Retailer dated 28th May 2013. As detailed above, Smiths News were then late on a number of occasions.

Having studied all the evidence in this case I find that:

1. Smiths News did fail to deliver all titles and their appropriate sections and supplements by the RDT of 05.15 on a number of occasions in late May and early June 2013.
2. That, having agreed an RDT of 05.15 with Mr. Retailer, Smiths News should have understood his commercial need and operational feasibility and been able to meet it having regard to its own logistical operations. Any question of 'bunching' by inward publisher deliveries should have been considered within its consideration of the agreed RDT.
3. That in future, Smiths News will deliver to Mr. Retailer no later than the RDT of 05.15.
4. Should Smiths News seriously or persistently fail to meet Mr. Retailer's RDT and he suffer direct financial loss as a result of that failure, he should make formal complaint under the provisions of the Press Distribution Charter whereupon, if successful, he may recover such loss. It is noted that Mr. Retailer does not seek restitution in this matter. He seeks correction of the problem.
5. There appears to have been a failure on Smiths News part to respond to a formal Press Distribution Charter Stage 2 Complaint. Such disregard to the dispute resolution process cannot and will not be tolerated. Smiths News is warned as to its future conduct with regard to its handling of such complaints.

Signature of Arbitrator: Neil Robinson (email)

Date: 26th June 2013

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

28/6/2013

Date Independent Arbitration Decision
sent to Wholesaler & Retailer:

28/06/2013