

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC/235636/120220

Date First Issued:

12/02/2020

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

17/02/2020 (Further and Better Particulars Requested
03/03/2020, 12/03/2020 & 20/03/2020.)

Independent Arbitration Decision

In the matter of the Arbitration Act 1996 and in the matter of a dispute between retailer Mr. D. and Smiths News (SN), Unit 45 Elmdon Trading Estate, Birmingham, B37 7HE and Unit 1, Jenna Way, Interchange Park, Newport Pagnell, Bucks. MK16 9QJ.

This complaint concerns alleged failure by Smiths News to process all returns collected from him for credit on the next available invoice, normally for the same week as collection contrary to Standard 5.9 of the Press Distribution Charter (PDC) Issue 2.

By undated PDC Stage 2 Complaint Mr. D. alleges that SN has failed to process and credit his returns on a number of occasions citing the following complaints 9315037827, 3178117, 181465, 188178, 3207820, 194089, 197179, 201507, 205175, 206455, 209899, 215826, 217335, 219548, 219560, 219568 and 220899. He submitted a substantial volume of documentary evidence in support of his complaint but failed to calculate his alleged losses.

By response to the complaint dated 04/02/2020 SN apologised for the service failure resulting in a number of credits being missing. It also accepted that the condition of its tote boxes were below standard. It pointed out that all credits on recall notes sent as part of the complaint had now been credited and the appropriate depot managers had been emailed regarding the condition of the tote boxes.

A request to Mr. D. for further and better particulars revealed that he considered that 5% of his claim remained un-credited. Subsequent requests for further and better particulars established that SN did recognise the 5% missing credits outstanding and undertook to issue the outstanding credits.

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

1. After a number of requests for further and better particulars SN has accepted that it had failed to credit Mr. D. for returns collected on a number of items.
2. Having established that it had breached the PDC Standard 5.9, SN has issued credit for the entire amount of Mr. D.'s original Stage 2 Complaint.
3. SN has also made a restitution payment of £58.03.
4. Mr. D. has claimed "£200 compensation".
5. Restitution is about restoring the injured party to what has been lost and any restitution ordered should be for proven losses on the sale of newspapers and magazines resulting directly from the breach taken over the period covered specifically by the complaint.

6. Under the PDC Complaints Process restitution is not applicable for the preparation of complaints which the industry considers to be a part of the general management of a newsagents business.
7. I consider the payment made by SN to Mr. D. was a considerate gesture which 'compensated' him for the time spent on making this complaint.
8. Mr. D. made further accusations of poor service standards by SN during the course of processing his Stage 2 Complaint. The scope of my jurisdiction is limited to determining whether a wholesaler, distributor or publisher has failed to meet one or more of the standards set out in the PDC and failed to deal with a subsequent PDC Stage 2 complaint based on those standard failures in a satisfactory manner. Mr. D. must make a fresh Stage 2 Complaint if he wishes to pursue the matters subsequently raised after his originating Stage 2 Complaint in this matter.

Neil Robinson

Signature of Arbitrator: _____

Date 30th March 2020

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

30/03/2020

Date Independent Arbitration Decision
sent to Wholesaler & Retailer:

31/03/2020