

Press Distribution Charter

Stage 3 - Independent Arbitration Decision

PDC Reference Number:

PDC241567/08/07/2016

Date First Issued:

06/07/2016

Name of Arbitrator:

Neil Robinson

Date complaint sent to Arbitrator:

19/08/2016

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mr. Retailer, and Smiths News, Howard Avenue, Barnstable, EX32 8QA (SN). This complaint concerns alleged failure by Smiths News to supply a number of 'part works'.

Mr. Retailer complains that SN has failed to supply him with the following part works:

1. 'Build a Solar System' No. 32
2. 'Marvel Fact Files' No. 120
3. 'Dinosaur Discovery' Nos. 35 and 36
4. 'DC Comics Graphic Novels Collection' No. 17
5. 'Dinosaur Friends' No. 44

He claims that he has made contact with SN on numerous occasions in an attempt to get the matter resolved without success. Furthermore, that was ultimately compelled to submit a Press Distribution Charter (PDC) Stage 2 Complaint on 06/07/2016. SN responded to the complaint by letter dated 11/07/2016 and advised him that he would receive a full response to the complaint within 28 days. SN had not responded by 18/08/2016 and Mr. Retailer escalated his complaint to Stage 3.

Unfortunately, yet again, SN has failed to respond to a PDC Stage 2 complaint within the prescribed time limit of 28 days. Furthermore, it has failed to respond to a Stage 3 complaint. Such disregard to the Charter and its complaints process is totally unacceptable.

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

1. Under the PDC Standard 2.1 the wholesaler is obliged to deliver all titles and their appropriate sections no later than the Retailer Delivery Time (RDT) or the Scheduled Delivery Time (SDT) for the day of issue.
2. Retailers are advised to report shortages of magazines to their wholesaler by 3.00 pm on the day of delivery in order to obtain replenishment.
3. Mr. Retailer has reported that he has made strenuous efforts to obtain his missing titles and I must therefore assume that on each occasion of missing copy, it was reported to SN.

4. Unfortunately, part-works present problems to the industry and there is often delay in obtaining back copies. Indeed Standard 4.17 provides that back copies will be supplied within 14 days, **where copies are available.**

5. Obviously I have insufficient evidence before me in order to determine whether SN has exhausted all efforts to obtain Mr. Retailer's back copies and accordingly whether copy is available.

6. I direct SN to make substantial effort in order to obtain Mr. Retailer's back copy titles within 14 days of receiving this adjudication and to supply me with firm evidence that they have done so.

7. Should SN fail to obtain the back copies detailed in this dispute, Mr. Retailer to prepare a schedule of his loss incurred and submit it to me for consideration of restitution.

Neil Robinson

Signature of Arbitrator: _____

Date: 23rd August 2016

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

23/08/2016

Date Independent Arbitration Decision sent to Wholesaler & Retailer:

23/08/2016