

Press Distribution Charter

Step 2 - Independent Arbitration Decision

PDC Reference Number:

PDC/127006/081123

Date First Issued:

08/11/2023

Name of Arbitrator:

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

Date complaint sent to Arbitrator:

08/01/2024

In the matter of the Arbitration Act 1996 and in the matter of a dispute between Mrs. P. and Menzies Distribution Limited (MD), Europa Drive Tinsley Sheffield S9 1XT. This complaint concerns alleged failure by MD to deliver all titles and their appropriate sections no later than the Retailer Delivery Time (RDT) or Scheduled Delivery Time (SDT) for the day of sale contrary to Part 1 of its 'Customer Service Pledge', Fourth Edition.

By Press Distribution Charter Step 1 Complaint dated 08/11/2023 Mrs. P. makes a detailed claim that during a period 24/07/2023 and 05/11/2023 deliveries of her newspapers and magazines were late. Mrs. P. indicated that she opens her shop at 05.00 am and that historically delivery had been in time for opening.

By letter dated 09/11/2023 MD acknowledged the complaint. By letter dated 10/11/2023 MD apologised for the inconvenience suffered and notified Mrs. P. that: (a) the complaint had been referred to the Sheffield Branch Manager, (b) the driver had been issued with an Improvement Notice which, if no improvement was forthcoming, would result in termination of his contract and (c) the driver was going to receive further training. MD hoped that the actions taken would rectify Mrs. P.'s problems.

MD failed to submit a PDC Step 2 - Arbitration Statement of Case.

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

1. There can be no doubt that MD has failed to meet its customer service pledge obligation to deliver Mrs. P.'s newspapers and magazines in a timely manner. Indeed by its letter dated 10/11/2023 it apologises for the service failures and outlines steps that it had taken in order to rectify matters.

2. The PDC and MD's 'Customer Service Pledge', Fourth Edition require a service failure to be serious or persistent in order for a formal complaint to be instigated. In relation to late delivery the industry defines persistent as follows:

Newspapers – The same problem occurs three times in three weeks for Monday to Friday newspapers three times in six weeks for Saturday or Sunday newspapers.

Magazines – The same problem occurs three times in six issues of a weekly, fortnightly or monthly magazine.

3. Mrs. P. has demonstrated to me that she has been experiencing persistent service failures.
4. Mrs. P. is entitled to restitution for her losses occasioned by the service failures.
5. For the avoidance of doubt and for the information of both parties I take this opportunity to set out the restitution payable in cases of late supply and missing copy 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 product.
 - 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.
6. If Mrs. P. considers that she has a proven legitimate restitution claim she needs to detail the same and submit it to MD for consideration with supporting evidence. MD is to accept the claim for due consideration and make an appropriate offer of restitution.
7. Should a dispute arise concerning the claim it should be referred back to me for further adjudication.
8. MD has failed to follow the PDC complaints process in that it has failed to provide all the documentation necessary for me to properly consider this arbitration. I strongly censure this act/omission which falls short of the standards required within the PDC and its complaints process.

Neil Robinson

Signature of Arbitrator: _____

Date: 08th January 2024

Seat of Arbitration: London, England.

Date form returned to PDC Administrator:

08/01/2024

Date Independent Arbitration Decision
sent to Wholesaler & Retailer:

11/01/2024