

Industry Code of Practice further to the Monopolies and Mergers Commission Report on the Supply of National Newspapers in England and Wales

(1) Uniform Procedure and Documentation

In order that all applications for supply are considered in an equitable and transparent way, wholesalers will undertake the following:

1.1 Standard Documentation

The wholesaler shall provide, to any prospective newspaper retailer, an industry-standard form on which application for the full supply of national newspapers will be made.

1.2 Standard Procedure

The wholesaler shall publish an industry-standard procedure which the wholesaler shall follow in processing any application; which application shall be acknowledged on receipt and dealt with within one calendar month.

1.3 Wholesaler Areas

The wholesaler shall not accept an application for supply of newspapers from an applicant located outside that wholesaler's area of operation as defined by the newspaper's publisher or distributor. Such applications shall be forwarded to the appropriate wholesaler and the applicant informed in writing accordingly.

1.4 Split Wholesale Areas

Where more than one wholesaler serves an area, any application for supplies shall be an application to all national newspaper wholesalers in the area. To assist applicants, wholesalers shall advise details of those other national newspapers wholesalers in their area.

1.5 Limitation of Refusal to Supply

Applicants who meet the commercial and economic criteria as laid down within this Code of Practice shall be granted supplies of National newspapers.

1.6 Register of Applications

Wholesalers will maintain records of all applications. This information will be maintained in accordance with the requirements of the Office of Fair Trading.

(2) Minimum Entry Level

In order to ensure that new retail accounts are provided with a wholesale service that meets the minimum commercial and economic requirements of the wholesaler, the following conditions will apply:

2.1 Applicants shall agree to a guaranteed minimum net weekly charge which shall be set at the Minimum Entry Level.

- 2.2 The Minimum Entry Level for each wholesale area shall be published by the wholesaler and shall be half of the average value of the newspapers invoiced weekly to all existing retailers in the wholesaler's area, calculated as the average weekly newspaper invoice value for the six months ending 31st March, 1994. Only those newspapers which the wholesaler is capable of supplying to the applicant shall be included in the calculation. The initial calculation shall have effect for the first two years following commencement of the Code and thereafter will be subject to annual review.
- 2.3 Where more than one Wholesaler serves an area then such individually determined Minimum Entry Level values shall be afforded to all applicants.
- 2.4 Wholesalers shall have the discretion to supply below this Minimum Entry Level.
- 2.5 Provided that the new retailer has sustained an order in excess of the Minimum Entry Level for at least six months, the wholesaler will extend Sale or Return facilities where they are made available and approved by the publisher or distributor, subject to the guaranteed minimum net weekly charge being maintained.

(3) Credit Risk Control

Successful applicants will be obliged to make a cleared deposit equal to three times the wholesaler's Minimum Entry Level, which monies will be held in a separate interest bearing account. Such deposit shall entitle the retailer to receive interest, payable annually in arrears, at the National Westminster Bank plc base rate, less an administration charge of 1.5% calculated on the sum of the deposit. The retention of the deposit will be reviewed after eleven months trading and refunded subject to the account being maintained satisfactorily in accordance with the wholesaler's Terms and Conditions of supply. The holding of deposits beyond the eleven month period will be subject to review every six months. Should any account be closed or transferred, any remaining deposit shall be refunded subject only to the retailer's account being cleared in full.

(4) Carriage Charges

Carriage charges, which reflect the commercial and economic distribution costs of wholesalers in the handling of National newspapers, shall be determined by reference to the wholesaler's published tariff available at the time of application and as determined from time to time.

(5) Marketing and Quality Standard for the Retailing of National Newspapers

Successful applicants will be encouraged to adopt a selection of minimum quality standards for display, merchandising, publisher promotions, signage, hours of trading and for ordering, authorised returns, provision of marketing information, support for the delivered copy and shop saves, as specified and published in the industry-standard document "Application for Supplies" and the wholesaler's own Terms and Conditions document. Wholesalers will use their judgement to allow reasonable flexibility to accommodate different types of outlet and/or location.

(6) Sub-Retailing

The wholesalers shall not refuse to supply a retailer on the grounds that the retailer intends to sell or transfer newspapers to another retail outlet (known as a "sub-retailer"). In order to maintain the effectiveness of the existing wholesaler's order reallocation systems, which are recognised as essential in order to maximise

sales, minimise waste and optimise availability of newspapers at retailer level, it is essential that sub retailing is properly monitored. The following conditions will apply:

- 6.1 Retailers with less than eighteen months newspaper trading will not be allowed to sub-retail supplies other than at the wholesaler's discretion.
- 6.2 The retailer shall notify the wholesaler, by way of an industry-standard form, of all sub-retail locations, including the name, address, postcode and type of outlet of the sub-retailer.
- 6.3 The retailer and the sub-retailer will not be permitted to sell or transfer newspapers to locations outside the wholesaler's area of operation as defined by the newspaper's publisher or distributor.
- 6.4 Sub-retailing is understood to be appropriate in order to respond sensibly to local consumer demand by transferring supplies over limited distances of a neighbourhood within the following distances of the supplying retailer's premises (subject to 6.3 above).
 - Central urban areas within a 500m radius
 - Other areas -within a one kilometre radius
- 6.4.1 Wholesalers will define in their published Terms and Conditions which parts of their distribution areas are categorised as central urban. Any disputes on the wholesalers' categorisation may be the subject of an appeal to the appeals body referred to below (paragraph 7).
- 6.4.2 Wholesalers will have the discretion to extend these distances and will give sympathetic consideration to applications beyond the distances stipulated from supplying retailers which would meet the distinct social and community needs throughout the wholesaler's distribution areas, particularly in thinly populated areas.
- 6.4.3 Where an outlet in such circumstances is unable to meet the Minimum Entry Level, wholesalers will also use their good offices to procure such supplies through a retail outlet in their area which is willing to provide supplies.
- 6.5 The retailer shall not permit a sub-retailer to sell or transfer newspapers to another retailer or sub-retailer.
- 6.6 It is recognised that retailers shall have the freedom to supply sub-retailers with firm sale supplies only up to the Minimum Entry Level value. Where the sale or transfer to a sub-retailer involving supplies with a weekly value in excess of the Minimum Entry Level is reached such sub-retailer shall be required to apply for a direct wholesale supply.
- 6.7 Payment for all supplies and compliance with the wholesalers' Terms and Conditions of business and operational requirements shall be the sole responsibility of the wholesaler supplied retailer.

(7) Appeals

- 7.1 The wholesalers shall retain their own published internal appeals procedure regarding applications for supply. Upon lodgement of any appeal such procedures shall be processed within six weeks from the date of receipt thereof.
- 7.2 In the event that an applicant is unsuccessful, having exhausted the wholesaler's appeal procedure, the applicant may appeal to an external independent appeal body. All appellants shall lodge an amount of £150 on appeal towards the appeal body's costs; which sum shall be refunded by the wholesaler if the appeal is successful. Such an appeal will be heard within two months of receipt and acknowledgement of the complaint.

(8) Date of Commencement

This Code of Practice, which will come into effect on 1 October, 1994, will be subject to review as necessary.