DRN-2763092

The complaint

Mr R has complained that Shop Direct Finance Company Limited trading as Very was irresponsible when it increased the credit limit on his catalogue shopping account.

What happened

Very opened an account for Mr R in September 2014 with a credit limit of £600. This type of credit was an open-ended or running account which Mr R used to pay for goods bought from Very's online catalogue. Within a year Very had increased Mr R's credit limit by £1,000. After another six months Very increased Mr R's limit by another £1,050. I've summarised the account limit variations below.

Increase number	Date	Increase	Decrease	Limit
	11/09/2014			£600
1	25/04/2015	£500		£1,100
2	15/08/2015	£500		£1,600
3	05/12/2015	£750		£2,350
4	26/03/2016	£300		£2,650
	14/06/2016		£350	£2,300
	09/09/2017		£375	£1,925
	30/12/2017		£200	£1,725

Mr R says that Very shouldn't have increased his limits because of his financial circumstances. He says *"The amount I took out lead to me paying high monthly interest on the account, to a point where I was only paying the interest and not chipping away at the amount issued."*

Very says that it wasn't irresponsible to have provided credit for Mr R and that he'd managed his account well. It says that prior to August 2017 Mr R had occasional arrears but rectified these quickly and that he usually paid more than the required minimum monthly payment. Mr R entered into a repayment plan in September 2017 to clear his arrears, which he did by June 2018. The account was paid in full and closed by April 2019.

Our investigator assessed the complaint and found that Very should have gone further in its affordability checks when it opened Mr R's account and each time it increased his credit limit. They concluded that, had proportionate checks been carried out on each occasion, Very would have learnt that Mr R wasn't likely to be able to repay credit sustainably when it increased his account limit above £1,600 in December 2015. They recommended that Very pay Mr R compensation for this.

Very didn't agree with the recommendation. It said that it would have been disproportionate to carry out further checks before increasing Mr R's account limits and noted that he never spent his maximum credit limit. Very said that our investigator's references to Mr R spending money on gambling wasn't relevant as its credit couldn't be used in this way. Very also said that based on its checks any difficulties Mr R had repaying credit was down to his poor money management and not his lack of means.

As the complaint hasn't been resolved informally it's now come to me, as an ombudsman, to review and resolve.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I have also taken into account the law, any relevant regulatory rules and good industry practice at the time. Having done so, I am upholding Mr R's complaint. I appreciate this will be disappointing for Very and I hope my explanation below makes it clear why I have come to this conclusion.

Very needed to check that Mr R could afford to meet his repayments sustainably before agreeing credit for him, either by providing the facility in the first place or increasing his limit. The regulations set out in the Financial Conduct Authority's consumer credit handbook (CONC) are specific in that lenders needed to *"take into account more than assessing the customer's ability to repay the credit*." Very needed to check Mr R could do so within a reasonable period of time, without having to borrow further and without experiencing adverse consequences. The checks needed to be proportionate to the nature of the credit and Mr R's circumstances, both of which might change over time.

CONC 5.3.1G(9) states *that "For a regulated credit agreement for running-account credit the firm should set the credit limit based on the creditworthiness assessment or the assessment required … in particular, the information it has on the customer's current disposable income."* CONC referenced the previous regulator's Irresponsible Lending Guidance (ILG), specifically ILG 4.6, which said *"We consider that the credit limit should have been set by the creditor (presumably aware of the borrower's current disposable income and any reasonably foreseeable future changes in the level of his disposable income …) on the basis of having undertaken an appropriate affordability assessment."*

Let me start by saying that I don't think the checks Very carried out were proportionate from the outset. In order to assess whether Mr R could meet his repayments sustainably I think it needed to understand that he had the means to do so, in other words sufficient disposable income. I haven't seen evidence that Very gathered information about Mr R's income, for example, until he had difficulty meeting his repayments in 2017. I understand Very checked Mr R's credit file when it opened his account and regularly thereafter to check how much he was spending on repaying debt but didn't look into his expenses in any detail beyond this.

As time went on, I think Very should have enquired further into Mr R's finances before increasing his credit limit, and verified the information he gave, to satisfy itself that he would be able to repay the money he borrowed within a reasonable period of time given his account balance was building up. I can see from the account history Very provided that Mr R's balance had increased from zero in May 2015 to over £1,250 that November. I acknowledge that Mr R didn't utilise his account up to the maximum credit limit - his account balance was above £1,600 for most of 2017 but never went above £2,000. I've also noted that, as Very mentioned, Mr R usually paid a bit more than the required monthly minimum payment though I note that he reached a zero balance on two occasions only; in May 2015 and October 2018, having paid lump sums which he says his parents provided.

However, concluding that Very ought to have done more before lending to Mr R doesn't automatically mean his complaint should succeed. To decide this, I've considered what information a reasonable and proportionate check would likely have yielded. I've looked through the bank statements Mr R provided (for his main bank account) and considered what he's said about his costs at the time. To be clear, I'm not suggesting Very ought to have done this, but these give me some understanding of Mr R's expenses and how he was managing his money. The bank statements show that Mr R was regularly incurring unplanned overdraft charges and spending money on gambling.

Having considered the matter carefully, I think it's more likely than not that Very would have learnt or reasonably ought to have suspected through proportionate checks that Mr R was having problems managing his money to the extent that it was unlikely he'd be able to repay further credit sustainably. I think it wouldn't therefore have increased Mr R's credit limit for a third time in December 2015 or again a few months later. It follows that I think it did so irresponsibly.

Very says that Mr R's gambling spend is irrelevant because its credit couldn't be used for gambling. From what I've seen Mr R's spending on gambling was regular and sustained and was likely impacting on the money he had available to meet his repayments and would do so going forward. So I can't agree that it was irrelevant in this case.

Very also said that based on its checks any difficulties Mr R had repaying credit was down to his poor money management and not his lack of means. By this I understand the lender to mean that that Mr R was earning enough to afford to repay a higher level of credit but that his spending patterns meant that he wouldn't have enough disposable income left to meet his repayments. As I've explained, I think Very would likely have learnt this through further checks and not increased Mr R's limit in December 2015.

Putting things right

I've concluded that Very was irresponsible when it increased the credit limit on Mr R's account beyond £1,600 in December 2015. In order to put Mr R back into the position he would have been in had this not happened means he shouldn't have to pay any interest or charges on amounts he borrowed above £1,600. It is fair that he's repaid the capital borrowed, as he's had the use of these funds to buy goods.

In summary, Very should:

- Rework Mr R's account to ensure that from 5 December 2015 onwards interest is only charged on the first £1,600 outstanding on the account to reflect the fact that no further credit limit increases should have been provided; and

- Apply Mr R's repayments to this adjusted balance.

- Any remaining amounts paid by Mr R should be treated as overpayments and returned to him along with 8% simple interest* on the overpayments from the date they were made until the date of settlement. Very should remove any adverse information about the account from Mr R's credit file.

* HM Revenue & Customs requires Very to take off tax from this interest. Very must give Mr R a certificate showing how much tax it's taken off if he asks for one.

My final decision

As I’ve explained above, I am upholding Mr R’s complaint about Shop Direct Finance Company Limited (trading as Very) and it needs to put things right as I’ve set out.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr R to accept or reject my decision before 20 July 2021.

Michelle Boundy
Ombudsman