

The complaint

A company, which I'll refer to as S, complains that First Data Europe Limited trading as First Data didn't dispute a chargeback on its behalf despite the strong evidence it provided. S is represented in bringing this complaint by its director, Ms L.

What happened

S is a merchant. In August 2020, a chargeback for £998.40 was raised against S in relation to a booking for accommodation abroad between 21 and 28 March 2020.

S submitted its defence in early September however First Data made the decision to accept the chargeback without submitting the defence on behalf of S.

S' account was debited for the chargeback in September. First Data informed S of the outcome during a call in early October and confirmed this information in writing at the end of October.

S complained to First Data, but they didn't uphold the complaint, so Ms L brought S' complaint to us.

Our investigator looked into matters and said he didn't think First Data had acted unfairly in accepting the chargeback, but he thought First Data's communication could've been more timely and supportive. So, he recommended that First Data made a payment of £100 to S in recognition of the inconvenience they had caused to S.

Ms L was unhappy with this outcome and asked for an ombudsman to look at S' complaint, so it has been passed to me to decide.

Ms L said S never had the opportunity to fight the chargeback due to First Data's miscommunication about the chargeback process and their incorrect setting of the deadline for providing S' defence.

Ms L would like First Data to refund the transaction in full.

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.

Having done so, I've come to a similar conclusion to our investigator and I've explained my reasons below.

I'll begin by noting that this complaint is about the merchant acquirer, First Data. So, I've looked at the actions of First Data and whether they acted fairly and reasonably, within the context of the merchant agreement and card scheme rules in their role as an acquirer, once the chargeback was raised. I'm not going to make any findings on whether the chargeback should have been raised as that is the responsibility of the card issuer.

Ms L said that First Data didn't give S adequate time to defend the chargeback. She told us that by the time S submitted its defence it was too late for First Data to dispute the chargeback as it fell outside of the time limits of the relevant card scheme.

The time period in which to defend the chargeback begins on the day the card issuer notifies the acquiring bank. I can confirm that First Data wrote to S on that same day to notify it of the chargeback and explain what action it needed to take. Ms L didn't receive this letter until six days after it was posted, and while I don't dispute the fact that this shortened the timeframe in which she needed to gather information and submit S' defence, I can't hold First Data responsible for postal delays.

In addition, Ms L did manage to submit a detailed response, so I think it is unlikely that she would've submitted any additional or alternative information had the letter arrived a few days earlier.

I therefore don't agree that First Data made a mistake with the timelines or that S wasn't given enough time to provide their defence.

However, First Data made the decision to accept the chargeback and not submit a defence on S' behalf. So, I need to decide whether I think First Data's actions were fair and reasonable.

First Data's Merchant Agreement Operating Guide explains that the information provided by the merchant (S) to defend the chargeback needs to be sufficient to warrant a reversal of the chargeback.

The basis of S' defence was that the accommodation remained open and services were able to be provided. Despite this, S sent emails to its customers advising them to contact their travel insurance provider to claim for their accommodation and travel costs due to government guidance at the time that said you shouldn't travel abroad unless it was for an essential reason.

First Data thought these emails indicated that S had cancelled the holiday, and this was part of the reason they decided to accept the chargeback and not dispute it on behalf of S. In addition, as the cardholder hadn't shown up at the accommodation, no services were provided to them and the cardholder would remain entitled to raise a chargeback regardless of whether or not they had travel insurance.

Given these concerns, it appears doubtful that there would have been a successful challenge to the chargeback. So, I don't find that First Data treated S unfairly in these circumstances as it seems unlikely the challenge would have succeeded, and First Data were not obliged to defend the chargeback in any case.

Nevertheless, I don't think First Data's communication with S was timely and I think they could've been clearer in explaining the reasons why they accepted the chargeback without defending it. There were inconsistencies in the information provided to Ms L over the phone

about whether the chargeback had been contested and there was a long delay in confirming the status of the chargeback to S in writing.

As a result of the inconvenience this poor communication caused, I'm asking First Data to make a payment of £100 to S.

Conclusion

I know Ms L will be disappointed by my decision, however, as I've explained, I can only look at the actions of First Data and although I can see there were issues with how they communicated with S, I don't think they acted unfairly or unreasonably in not defending the chargeback.

My final decision

My final decision is that I uphold this complaint in part and require First Data Europe Limited trading as First Data to pay £100 to S.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L, on behalf of S, to accept or reject my decision before 10 March 2022.

Tara Richardson
Ombudsman