

The complaint

A company which I'll refer to as D complain that Western Union International Bank GmbH, charged it the wrong rate for a foreign currency trade.

In bringing the complaint D is represented by its director who I refer to as Mr S

What happened

The facts of the case are well known to the parties, so I won't repeat them in detail.

Briefly, D uses Western Union to send foreign exchange payments to its overseas suppliers. On 12 June 2019 Western Union wrote to Mr S to offer a rate concession on future currency exchange transactions. Western Union said:

"As discussed, on your volumes we can offer you 0.15% off the interbank rate saving your company money when you're looking to make your currency conversions".

In April 2021 Mr S booked a foreign exchange currency deal for AED 1,018,295.50. But the rate concession that D was offered in June 2019 was not applied to the transaction when it was booked. Instead, Western Union charged D a 0.25% margin.

Mr S says a few days later before he was due to make the payment to complete the trade, he noticed the error and declined to go ahead. So, Western Union cancelled the trade and asked D to pay losses of £3,075.70 representing the difference between the rate at the time the foreign currency trade was booked, and rate Western Union received when they cancelled it.

D didn't think it should have to pay the £3,075.70 Western Union demanded. But Western Union disagreed, because they didn't think they had done anything wrong. They said Mr S authorized the booking of the trade and therefore D should be liable for the loss that arose from its cancellation.

D didn't agree and referred its complaint to this service.

Our investigator upheld the complaint and concluded the bank was wrong to seek to recover the £3,075.70 from D. She was satisfied that the 12 June 2019 e-mail showed that Western Union and D had an agreement whereby D would be charged the concessionary rate stated in the e-mail for currency conversions. And she believed both D and Western Union had become familiar with that pricing because historic transactions were priced accordingly. In particular, she observed that in the past Western Union had failed to abide by the agreement, as had happened in August 2020. But in response to Mr S's complaint about it, not only did the bank acknowledge and put right the error, it said in a telephone call to Mr S, that the 0.15% rate hadn't changed and D's transactions would continue to be priced accordingly.

Western Union didn't agree with the investigator's conclusions and have asked for the matter to be reviewed by an ombudsman. Western Union said - summary:

- There was no contractual agreement, between Western Union and D in relation to the 0.15% rate concession. So, it's unfair that the bank should be obliged permanently to honour a rate which its representative perhaps overstated as an offer from the bank in their attempt to win D's business.
- In any case, since the 12 June 2019 e-mail D agreed to Western Union's Corporate Terms and Conditions including, more specifically section 4.7. which states:

"4.7. Exchange Rate Quote. Where a foreign currency conversion service is requested in relation to a Request, the Client will receive an exchange rate quote which will only be valid for such time as specified at the time the exchange rate is requested. The exchange rate applicable to any particular Request is the exchange rate provided to the Client at the time the Request is submitted by the Client...".
- Mr S was quoted an exchange rate and given the opportunity to confirm he was happy to proceed with the transaction at that rate and he confirmed that he was.

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 agree with the investigator's conclusions and broadly for the same reasons. I'll explain why.

Western Union's 12 June 2019 e-mail to D is unambiguous. The bank stated clearly that based on the volume of D's transactions it was prepared to offer D, 0.15% off the interbank rate. Importantly, also Western Union didn't put a time limit on the concession.

It is no part of Western Union's case that the circumstances which led to their offer to D had changed - for example, that its trade had decreased. And the bank didn't write telling D it no longer wished to continue to offer the concession as it had done when making the offer.

I note Western Union believes the 12 June 2019 offer was perhaps an overstated inducement by its representative to attract D's business. But it wouldn't be fair to blame D for that. It appears the inducement worked. So, I don't think it was unreasonable that D should have expected, as it did, that going forward the rate concession would continue to apply to its foreign exchange transactions, unless Western Union confirmed they were no longer able or prepared to abide by it.

I've thought about Western Union's argument that in effect condition 4.7 of the Corporate terms and conditions which D had entered into after the 12 June 2019 e-mail put an end to any previous offer. But in the absence of any clear indication being given to D that that was the case – and I've seen no evidence to that effect, I'm not persuaded it does.

Besides, as the investigator observed, in August 2020, D did not receive the rate concession on a transaction it completed at the time. The bank not only took corrective action after Mr S complained but in a phone call to Mr S confirmed the rate concession would continue to apply. I therefore find that if Western Union did not wish to continue offering the concessionary 0.15% rate to D, it had an opportunity in August 2020 when resolving D's complaint to let it know clearly and explicitly that was the case. In other words that future

exchange rate transactions would not be subject to the rate concession that was offered in June 2019.

Western Union has also pointed to Mr S's acceptance of the rate the bank confirmed in April 2021 when the foreign currency trade was booked. Mr S acknowledges that he did. But he says he did so without realising he'd agreed the wrong rate until he'd gone away and worked things out.

I'm persuaded by Mr S's testimony. I think he made a mistake. Given his past action in August 2020 it seems to me he wouldn't have knowingly agreed a rate that failed to take account of the concession he was expecting to receive. So, I'm not persuaded Mr S was freely agreeing to dispense with the rate concession in favour of the alternative that was confirmed to him in April 2021.

Putting things right

In summary, having agreed a concessionary rate of 0.15% off the interbank rate on 12 June 2019, it wasn't unreasonable for D to expect to receive the concession going forward and that it would be applied to the April 2021 trade that was booked on its behalf. Since that wasn't the position it was not unreasonable for Mr S to decline to proceed with the transaction. It's unfortunate the cancellation of the trade resulted in a loss of £ £3,075.70. But since Mr S did not act unreasonably when he declined to go ahead with the transaction, I do not find D should be held responsible for that loss.

My final decision

My final decision is I uphold this complaint. In full and final settlement, I require Western Union International Bank GmbH to take no further action to recover from D the £3,075.70 loss incurred when the foreign currency trade was cancelled

Under the rules of the Financial Ombudsman Service, I'm required to ask D to accept or reject my decision before 15 June 2022.

Asher Gordon
Ombudsman