

The complaint

Mr C is unhappy with the way Vanquis Bank Limited ('Vanquis') handled his claim for a refund of a payment he made using his credit card account.

What happened

- In July 2020, Mr C used his Vanquis credit card account to pay a travel agent I'll call 'T' £570 for return flights from London to Bangkok. He was due to fly from London to Bangkok on 30 October 2020 and return on 18 November 2020. However, Mr C says the flights were cancelled by the airline a week before he was due to fly because of the Covid-19 pandemic.
- Mr C asked T to refund the payment at the start of November 2020.
- Mr C contacted Vanquis on 14 December 2020 to 'dispute' the transaction, as he hadn't heard anything from T. However, he called Vanquis four days later to cancel the dispute because T had told him it had submitted a claim to the airline.
- Mr C called Vanquis on 16 March 2021 to ask it to 'dispute' the transaction again, as it had been 12 weeks since T had told him it had submitted the claim to the airline and he hadn't heard anything since.
- Vanquis wrote to Mr C on 13 April 2021 to say it couldn't dispute the transaction because it had been too long since the original transaction.
- Mr C called Vanquis on 22 April 2021 to complain about the outcome. Specifically, he said he had six years to make a claim under section 75 of the Consumer Credit Act 1974 ('CCA') and that Vanquis itself was required to provide a refund. During the call, a Vanquis employee explained that it couldn't dispute the transaction as it had been more than 120 days since Mr C was due to fly to Bangkok, and section 75 of the CCA didn't apply because Mr C hadn't paid the airline directly.
- Mr C then referred a complaint about Vanquis to our service.
- Vanquis subsequently wrote to Mr C on 28 June 2021. It said it couldn't dispute the transaction because it had been more than 120 days since the transaction. And, confusingly, it said section 75 of the CCA didn't apply because each individual item was less than £100.01.
- One of our investigators agreed that, by March 2021, it was too late for Vanquis to dispute the transaction. And our investigator didn't think it was unfair for Vanquis to decline Mr C's claim under section 75 of the CCA because T wasn't responsible for providing the flights, so Vanquis wasn't legally answerable for the airline's failure to provide them.
- Mr C disagrees and he's asked that an ombudsman make a final decision.

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.

Mr C initially asked Vanquis to 'dispute' the transaction. This is also known as a 'chargeback'.

A chargeback is a way for a credit card provider to reclaim money from the supplier's bank when a consumer doesn't get the goods or services he paid for. It isn't a legal right and there's no guarantee the card provider will be able to recover the money this way. The process is subject to the rules of the scheme – which, in this case, are set by Visa – and a strict criteria and time limits apply. To be clear, Vanquis doesn't set the rules. And I can't change them.

I appreciate that Mr C initially contacted Vanquis in December 2020. But as he later asked Vanquis to cancel this dispute, the relevant date for the purposes of Visa's time limits is 16 March 2021.

I've carefully considered Visa's rules. The rules say a chargeback must be initiated 'no later than':

- 120 calendar days from the transaction date – which here would be 3 July 2020, when Mr C paid for the flights; or
- 120 calendar days from the last date that Mr C expected to receive the service – though it can't be more than 540 calendar days from the transaction date.

Regrettably, when Mr C contacted Vanquis on 16 March 2021, it was more than 120 days from the date he expected to receive the service – so Vanquis was right when it told Mr C it couldn't initiate a chargeback. (The 540-day limit isn't engaged here because Mr C was due to fly to Bangkok a few months after he purchased the flights.)

When Vanquis explained to Mr C that it couldn't initiate a chargeback, Mr C asked about section 75 of the CCA.

Section 75 of the CCA protects consumers who buy goods and services on credit. It says, in certain circumstances, the credit provider is legally answerable for any misrepresentation or breach of contract by the supplier.

It's disappointing that Vanquis told Mr C that section 75 didn't apply because each individual item was less than £100.01. While it's true that section 75 only applies if the cash price of the goods or services is more than £100 (and less than £30,000), the flights clearly cost more than £100 – so the letter Vanquis sent Mr C on 28 June 2021 was confusing and unhelpful.

However, when Mr C spoke to the Vanquis employee on 22 April 2021, she essentially said Vanquis would decline Mr C's section 75 claim because he hadn't paid the airline directly. I know Mr C will be very disappointed but I don't think it was unfair for Vanquis to decline his claim on this basis. I'll explain why.

In this case, Vanquis is legally answerable for any breach of contract by T. It is not, however, legally answerable for the airlines actions. So I've carefully considered T's terms and conditions – which is the contract in this case – to see what it was contractually required to do. I agree with our investigator that the terms and conditions don't make it as clear as others I've seen that T is only responsible for advertising and arranging the sale of the flights, and isn't responsible for providing the actual flights. Nevertheless, on balance, I think that's the nature of its contractual obligations. I say this because the terms and conditions repeatedly refer to, and defer to, the airline's own terms and conditions. For example, the section on 'refunds' says:

'Unused or part used air tickets are returned to the airline for authorisation and calculation of any refund due...In most case, [T] is not permitted to make any refund without reference to the airline.'

I have a great deal of sympathy for Mr C. The airline cancelled the flights and he's out of pocket through no fault of his own. However, I've seen insufficient evidence that the airline's failure to provide the flights or a refund amounts to a breach of contract by T. As a result, I don't think it was unfair for Vanquis to decline Mr C's claim under section 75 of the CCA.

My final decision

For the reasons I've given, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 16 January 2023.

Christopher Reeves
Ombudsman