

The complaint

Mr M complains that Revolut Ltd won't refund a transaction he says he did not make and does not recognise.

What happened

On 13 August 2021, a payment of just over €1000 was made using Mr M's debit card. The merchant appeared on Mr M's statement as Cie Pari Mutuel and its address was given as Paris.

On 17 August 2021, the payment was debited from Mr M's account. There wasn't a sufficient balance to cover the payment at that time so it left his account with a negative balance.

Mr M thinks his bank account has been hacked. He says that he could not have made this payment himself as he was at work in Switzerland and has provided his work schedule to support this. In addition, Mr M says that the payment should never have been accepted as he didn't have enough money in his account to cover it.

Mr M contacted Revolut and asked to be reimbursed. It declined Mr M's claim. It concluded there was no reasonable explanation as to how the payment could have been made without Mr M's involvement. In its final response letter, it said that no fraudulent activity had been found and suggested that Mr M should contact the retailer.

Unhappy with Revolut's position, Mr M referred the complaint to this service. Our Investigator looked into it but did not recommend that it should be upheld. He said the disputed transaction had been made on 17 August 2021 at 5.32am and referred to undisputed payments also being made in Paris on 16 and 17 August 2021. He thought the transaction was authorised because he could not see how someone could have accessed Mr M's card and PIN without him knowing given what he'd said about not losing the card, living alone and not giving the PIN to anyone. He explained that the transaction was made offline which is why it was not declined due to insufficient funds.

Mr M disagreed. He said he'd been a victim of fraud and did not carry out this transaction. He referred to newspaper articles about card cloning. He thought it was dishonest for Revolut to allow an offline transaction to go through when the account does not have credit facilities. He asked for the complaint to be reconsidered.

As no agreement could be reached, Mr M's complaint was referred to me. I issued my provisional decision on 20 December 2020. In it, I explained why I was minded to reach the same overall conclusion as our Investigator, but for different reasons. An extract of that decision is set out below:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. When considering what is fair and reasonable, I am required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

In cases when it is not clear what happened, I base my decision on the balance of probabilities. In other words, what I consider is most likely to have happened in the light of the available evidence.

There's a lot of money involved in this dispute so I can understand why Mr M is concerned. But having considered everything that's been said and provided, I currently think Revolut can fairly hold Mr M liable for the disputed transaction. I will explain why.

When and where was the disputed transaction made?

When Mr M referred his complaint to this service, he said the disputed transaction had been made on 13 August 2021. But our Investigator said the transaction had been made on 17 August 2021 and at a time when Mr M appeared to have been in Paris. Clearly both of those positions cannot be correct.

Having looked carefully at Revolut's technical information, the transaction history shows it was completed on 17 August 2021 at 05:32:49. But the point of sale information says the transaction was made on 13 August 2021 at 15:23:58. I consider the difference between the two dates to be because the transaction was made offline. What this means is that the merchant's terminal does not have internet connection in order to verify the transaction in real time, so the account holder won't see the charge on their bank statement straight away. Offline transactions are not uncommon and can include transactions made in locations such as underground ticket machines or on aeroplanes. Revolut has no control over whether an individual merchant is online or offline when a transaction is made.

From what I have seen, I am satisfied that the disputed transaction was actually made on 13 August 2021 but did not debit Mr M's account until later. I have considered the disputed transaction alongside the genuine transactions before and after that Mr M agrees he made. I have detailed them below:

<i>Date</i>	<i>Time</i>	<i>Merchant</i>
13/8/2021	14:36	Cash withdrawal in Lausanne
13/8/2021	15:23	Cie Pari Mutuel
13/8/2021	20:17	McDonalds Lausanne

I agree it's not possible for Mr M's card to have been in Switzerland at 14:36 when he used it to withdraw cash, in Paris at 15:23 when the disputed transaction was made and then back in Switzerland at 20:17 when he used it at McDonalds.

But the address of the merchant is not necessarily the same place where this transaction was initiated. It is possible that the merchant is registered in Paris but operates elsewhere. Revolut is unable to provide any further information about precisely where the card was used.

From my own research, Pari Mutuel is a betting agency, PMU. PMU appears to be available in Switzerland as well as in France. The merchant that received the money, Cie Pari Mutuel, provides technological solutions for the pari-mutuel betting service.

I will never know for certain exactly where Mr M's card was used. But it seems more likely than not that it was used at a PMU in Switzerland and not Paris. In further support of this is the Cie Pari Mutuel transaction appears on Mr M's bank statement in Swiss Francs and not Euros. Revolut's technical evidence shows the transaction was made in Swiss Francs.

Having established the transaction was unlikely to have been made in Paris, I have gone on to consider whether Revolut can fairly hold Mr M responsible for it.

Can Revolut hold Mr M responsible for the disputed transaction?

Whether a payment transaction has been authorised or not is important because account holders will usually be liable for payments they've authorised and, generally speaking, payment service providers will be liable for unauthorised payments. If Mr M made the disputed transaction himself or agreed it could be made on his behalf, it would not be fair to ask Revolut to refund it. But Mr M says he does not recognise this payment and has explained that his card and PIN were always in his control.

Mr M has suggested that his card has been cloned. But I can rule that out because I'm satisfied from Revolut's technical evidence that Mr M's genuine card and PIN were used to make the disputed transaction. But the regulations relevant to this case say that is not, on its own, enough to enable Revolut to hold him liable. So, I also need to think about whether the evidence suggests that it's more likely than not that Mr M consented to the payment being made.

I've thought about the possible scenarios for how this transaction could have been made. It's possible that Mr M made it himself and perhaps did not initially recognise it as he thought it had taken place in Paris. If this is what happened, it would be an understandable mistake for him to have made, but Mr M has not referred to making any transaction for this kind of amount at that time.

If Mr M did not make it himself, it was either made by an opportunistic thief, or someone closer to him either with or without his permission. I don't think it's likely that an opportunistic thief would have taken Mr M's card and then taken steps to return it back to him. They would have to know where he was located and returning a card would increase the risk of their actions being detected.

If Mr M had given someone closer to him permission to use his card, Revolut could still treat any transaction that they went on to make whilst they had the card as being authorised by him.

So I've thought about whether this transaction could have been made by someone closer to Mr M but without his knowledge or wider agreement. But I cannot see how this opportunity would have arisen in the circumstances that Mr M has described.

He's explained to us that the bank card has not moved from his home and he did not give his PIN to anyone. He's explained that it was not possible for anyone else to have accessed his card because he lives alone.

It's clear that whoever carried out the transactions knew Mr M's PIN because there weren't any incorrect PIN entries. I'm unable to find a plausible explanation for how someone else would have known this information. It is also hard to see how anybody other than Mr M could have carried out the spending when he's explained the card was always in his possession and no one else could have accessed it.

Overall

I am sorry to have to deliver this news to Mr M. I know this wasn't the outcome he was hoping for. He's explained how stressful the situation has been and how he has had to borrow money from friends. But having considered everything, all of the available evidence points to it being more likely than not that Mr M made the transaction himself. There is no

explanation for how someone else could have used his card without his knowledge or agreement. I realise that is a very difficult message to give, but that is what the available evidence leads me to conclude. This means that Mr M is considered to have authorised the transaction in dispute and it was not unfair of Revolut to hold him responsible for it. I also haven't seen anything to suggest that Revolut acted incorrectly when it processed the disputed payment.

Responses to my provisional decision

Revolut responded to my provisional decision and said it had no further points to add.

Mr M did not respond. As the deadline for both parties to respond has now passed, I will review the complaint afresh.

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, and as neither party has sent any new evidence or arguments for me to consider, I see no reason to depart from the conclusions set out in my provisional decision and reproduced above.

In this case, in all the circumstances, I can't fairly or reasonably say that Revolut is responsible for refunding Mr M.

My final decision

For the reasons I've explained, my final decision is that I don't uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 2 March 2023.

Claire Marsh
Ombudsman