

The complaint

Mr O has complained that Skrill Limited allowed him to make multiple gambling transactions and that it failed to identify him as a vulnerable person with a gambling addiction.

What happened

Mr O opened his Skrill account in March 2011 and began making regular payments to online gambling sites. He says he later found out that online gambling was illegal in Germany, where he lives. As such, Skrill shouldn't have allowed the transactions to go ahead. So, he would like Skrill to reimburse him €79,736.44 for the transactions he carried out between 2012 to 2016, plus 8% interest.

Skrill didn't uphold Mr O's complaint. It said that, as a payment processor, it was not obliged to monitor its customers' activities to detect gambling vulnerability. It also said that it complied with the laws of the countries it operated in and that the terms of the account made it clear that it was up to its customers to ensure they comply with the laws in their country of residence.

Skrill said that it only became aware of Mr O's gambling problems when he made the complaint in 2022. In response, it said it had taken steps to block him from opening a new account using his email address.

Our investigator didn't uphold the complaint. Firstly, she said that only a court, and preferably a German court, could rule on whether what Skrill was doing was illegal. Secondly, she said that Skrill had acted to close Mr O's account when it found out about his gambling addiction, which was reasonable. Mr O disagrees with the investigator's opinion and so the complaint has been passed to me for a 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.

The Ombudsman was established to be a quick and informal service. This doesn't mean we apply any less rigour or care in reaching our decisions. However, it does mean that we might not address each and every point in the way that Mr O might wish.

Mr O has provided a great deal of information in support of his complaint. Although I may not refer directly to it, I can assure Mr O that I have read and considered everything that he has sent in.

Mr O has explained that online gambling was prohibited in Germany. So he thinks that Skrill should have declined the payments because its systems should have recognised that he lived in Germany and that he was making payments to betting sites, which was an illegal activity. So, even if Skrill wasn't obliged to monitor accounts to identify gambling addiction, it should still have been automatically stopping illegal transactions. And because it didn't, it has colluded in illegal actions and fraud.

Mr O has set out why he thinks Skrill has contravened both English and German law. It is not for this service to make a finding on whether its activities were illegal or not, only a court can do that. So, although I know it will be very disappointing for Mr O, I am unable to consider this part of his complaint any further.

But I have looked at whether Skrill should have identified that Mr O was using his account to gamble in a country where gambling was heavily restricted.

Skrill has said that it's the responsibility of the consumer to ensure they're accessing Skrill's services for legitimate and legal purposes in their countries of residence and that its customers agree to this as part of the terms and conditions when opening an account. It therefore admits no liability for the fact that Mr O was able to access and pay for online gambling via his Skrill account.

A large proportion of Skrill's customers engage in gambling and it could be argued that it should therefore do more to monitor and prevent online betting in territories where it is restricted. But, whilst Skrill probably could do more, I'm unable to conclude that Skrill had to do that. And as mentioned above, I'm unable to make a finding that, by not doing so, it was breaking the law.

Mr O thinks the transactions he made are akin to authorised push payments, where you are tricked into making a payment to a scammer. But in those situations the scammer is impersonating a legitimate merchant and the consumer doesn't receive the goods or services they have paid for.

The gambling sites Mr O was making payments to were legitimate merchants, it's just that Germany restricted their use by its residents. And Mr O did receive the services he paid for as he was able to gamble and place the bets he wanted to.

Mr O says that merchants who knowingly take bets from consumers in jurisdictions where they are not licensed are facilitating illegal betting. But in this decision I am only looking at the actions of Skrill and not the merchants.

On balance, I'm not persuaded that there was anything about the transactions that meant Skrill's detection systems should have flagged them up or blocked the payments as potentially fraudulent.

Mr O has acknowledged that Skrill was not legally obliged to monitor accounts to prevent losses due to addiction. But he says it should have been clear from the pattern of his payments that he was likely to be suffering financial hardship as the result of a gambling problem, particularly when he started to make larger individual transactions.

Our investigator has said that Skrill closed Mr O's account after finding out about his problems, which is incorrect. It was Mr O who closed the account himself.

The question I need to consider is whether or not Skrill did enough to try to stop consumers, and in particular vulnerable people with gambling addictions, from using its services. This is particularly important as Skrill has previously confirmed that the majority of its consumers use its services to access online gambling and so I would expect Skrill to have considered that some of its customers would be compulsive gamblers and try to take steps to mitigate any harm they might experience using its services.

Looking at Mr O's statements it is very clear that he was using his Skrill account to gamble. The transactions are easily identifiable as the gambling merchant is clearly named as the

acquirer receiving the funds from Mr O's account. Likewise, any payments in, as the result of bets won, are also easily identifiable as coming from gambling merchants.

But I also need to consider whether there was any reason why Skrill should have reviewed Mr O's transactions. Its systems weren't automatically flagging gambling merchants. So, something would have needed to happen to prompt Skrill to manually review the account, such as something that might pose it a financial risk, like disputed transactions or potentially fraudulent transactions. Also, it could have been prompted by anything that Mr O told it directly about how the gambling was affecting him.

Although Mr O was clearly gambling, Skrill didn't have any information to suggest that he was experiencing financial problems as a result. There was nothing that happened that might have alerted it to the issue. There's no evidence that Mr O told them about having a gambling addiction. He didn't give this as a reason when he closed the account. So overall, I'm unable to conclude that Skrill ought to have been aware that Mr O was vulnerable or that it is at fault for failing to identify that he might be experiencing financial difficulties as a result of his gambling.

I do appreciate that Mr O has gone through a very difficult time. I'd like to thank him for the open and honest way he has provided his personal information to us, which can't have been easy. However, whilst I know it will be disappointing for him, I am unable to uphold his complaint.

My final decision

For the reasons set out above, I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 21 July 2023.

Carole Clark

Ombudsman