

## **The complaint**

Mr L complains that he has received an excessive amount of marketing, in the form of unsolicited market research emails from Vanguard Asset Management Ltd (Vanguard). This has resulted in him losing confidence in Vanguard.

## **What happened**

On 21 March 2023, Mr L received an offer of taking a survey via email from Vanguard. As this was an unwanted approach, Mr L unsubscribed from receiving further market research emails. On March 24 and March 29 2023, further emails were received, both including the same invitation to complete a survey.

On 31 March 2023, Mr L complained to Vanguard. He stated that he was unhappy with the emails because his marketing preferences had been set to ensure he did not receive such emails. He was also unhappy at continuing to receive duplicate emails despite him having unsubscribed and felt that it was an abuse of his data.

On 3 April 2023, Vanguard responded to Mr L to apologise for the inconvenience caused, confirm that he had been removed from the marketing list, and that his complaint had been logged.

On 6 April 2023, Vanguard sent their final response to Mr L. Within this they confirmed that Mr L had opted out of Trustpilot feedback requests, but not research emails which is why he had received the recent correspondence. The response confirmed that they had removed Mr L from all email lists and did not uphold the complaint.

Mr L was unhappy with this and on 9 April 2023 he referred his complaint to this service. He complained that Vanguard had not addressed his complaint points and wanted Vanguard to prove that he had opted to receive the research emails. The investigator considered all the available evidence and found that although Mr L may have been inconvenienced, Vanguard had already taken steps to prevent it happening again and therefore didn't ask them to take any further action.

Mr L remained dissatisfied. He stated that he did not believe that all the points raised in his complaint had been addressed or the case investigated thoroughly. He also disagreed with the investigator's view that Vanguard had taken steps to prevent the issue happening again within a "matter of days" and requested that the case was referred for 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.

Having done so, I am of the same opinion of the investigator and do not uphold Mr L's complaint.

Before getting into the detail of the complaint, I would like to firstly reiterate the purpose of

this service, which is as an informal, impartial dispute resolution service. And while we do take relevant law and regulation into account when arriving at our decisions, our remit is focused on determining whether we feel a fair or unfair outcome has occurred – from an impartial perspective – after taking all the factors and circumstances of a complaint into consideration.

The only emails Mr L has complained about were received between 21 and 29 March 2023. I have not seen the emails themselves, but the information provided by both Mr L and Vanguard indicates that these were a research survey, and reminders/prompts to complete the survey. Mr L states he had opted out of receiving marketing. Vanguard state that Mr L had opted out of Trustpilot emails, but not research emails. The final response letter from Vanguard indicates that surveys, marketing and Trustpilot emails are categorised differently from each other, and their system shows that Mr L was not opted out of all categories. I have no reason to doubt the explanation provided by Vanguard and note that Mr L has stated he hadn't received any other unwarranted or unwanted emails from Vanguard. It seems to me that whilst Mr L was clear that he did not wish to receive any marketing emails, Vanguard did not consider the survey sent as fitting within that category, and therefore it was sent to Mr L in good faith.

When Mr L received the first email on 21 March 2023, he states that he unsubscribed from receiving further emails, however he received another two, on 24 and 29 March 2023. Vanguard have not commented on why Mr L received further emails, following having unsubscribed after the first unwanted email contact on 21 March 2023. I have considered the most likely reason for this, and whether a fuller explanation from Vanguard would be beneficial to the outcome of the complaint. Given the short timescales involved, I think it is reasonable to conclude that the second and third emails were more likely than not to have been scheduled to be sent prior to Mr L's unsubscribe request being received. And even if this was not the case, I don't think that Vanguard need to take any further action for the reasons below.

Mr L has queried why he suddenly received emails inviting him to complete surveys, when he had previously not received such communications. Vanguard have not addressed this point as part of their response to the complaint, and I have considered whether Vanguard have acted unfairly or unreasonably. I am not persuaded that they have. As outlined above, it appears to me that the survey emailed to Mr L was not considered to fall within the category of marketing, from which Mr L had unsubscribed. I do not know why Vanguard opted to issue a customer survey in March 2023 – this was a commercial decision for them to make.

Mr L disagrees with the investigator's comments that Vanguard took steps to prevent the issue happening again within "a matter of days". It is noted that the initial complaint email sent by Mr L was sent on a Friday at around 8pm. He received a response from Vanguard shortly after 9am on 3 April 2023, the next working day, apologising for the inconvenience caused, and confirming that he had been removed from the mailing list. It confirmed that the complaint had been logged and a final response letter was sent on 6 April 2023. I am in agreement with the investigator that Vanguard took appropriate steps to rectify the position by ensuring Mr L was unsubscribed from all email lists within a short timeframe.

I acknowledge that receiving unwanted emails from Vanguard would have been a frustrating intrusion for Mr L. However, as explained to Mr L previously, the role of the Financial Ombudsman Service is to put consumers back into the position they would have been in had it not been for the mistakes made by the company about which they are complaining. As I've said I'm not persuaded the emails Mr L received on 24 and 29 March were the result of an error or failing to action his request to unsubscribe. And while I appreciate Mr L wants to know exactly how and where all the subscription and unsubscription options were, I don't

think I need to address that to determine this complaint. I say that because even if Vanguard made an error somewhere which meant Mr L received those three emails in late March 2023, they have already confirmed they have removed Mr L from all marketing lists to ensure he will not receive further unwanted emails. Mr L has not lost out financially by Vanguard's actions, nor am I of the opinion that the emails received in March 2023 would have caused distress or inconvenience to a level that it is appropriate for Vanguard to make a compensation payment.

### **My final decision**

For the reasons stated above I do not uphold Mr L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 8 March 2024.

Joanne Molloy  
**Ombudsman**