

The complaint

A company, which I'll refer to as J, is unhappy that First Merchant Processing (Ireland) Limited trading as AIB Merchant Services ("AIBMS") failed properly to defend a chargeback that was raised against it.

In bringing this complaint, J is represented by its director, who I'll refer to as Ms M.

What happened

The background to this complaint is well known to the parties, so I won't repeat it in detail.

Briefly:

- In November 2019, J entered into an agreement (the Agreement) with AIBMS for the provision of merchant services to enable J to take card payments from its customers.
- In February 2023, J accepted a £1,750 card payment from a customer. However, the transaction was later disputed. And in April 2023, a chargeback was raised in connection with the transaction, alleging essentially, that J hadn't provided the service for which it had charged the customer.
- On 16 April 2023 AIBMS notified J of the chargeback.
- On 25 April, J responded to the claim by sending AIBMS evidence so that they could defend the chargeback - including background details of the transaction, a copy of the terminal receipt and exchanges of e-mails with the customer concerned.
- In May, in defence of the chargeback, AIBMS forwarded J's evidence to the cardholder's bank. And in the meantime, the £1,750 was refunded to J's account. But AIBMS warned J that the cardholder's bank still retained the right to dispute the transaction which, unfortunately it did.
- On 5 June, after receiving notification to that effect from the cardholder's bank, AIBMS wrote to J to let it know. AIBMS says, that shortly after, on 7 June J contacted them to say its position remained the same. And as well as providing AIBMS with much the same evidence it had given them in April 2023, J requested confirmation regarding the next steps.
- On 9 June AIBMS wrote to J saying:

"I have reviewed the chargeback and can see we submitted a defence to the cardholder's bank on 22/05/2023 but they have come back disputing the chargeback further".

- AIBMS added:

“This case will be reviewed to see if we can attempt to defend further within MasterCard rules., in the meantime if you have any further documentation you wish to add please send this as soon as possible.”

- On 13 June 2023, J e-mailed AIBMS to say it had a file documenting the work it had carried out on behalf of the customer, payment for which remained outstanding and now the subject of legal proceedings. Further evidence and documents were attached to the email for AIBMS to consider, including details of the service provided to the customer, further card receipts and correspondence about J's costs.
- On 14 June, AIBMS wrote to J to say that the cardholder is continuing to dispute the transaction, and so they'd debited J's account with the chargeback amount.
- J didn't think that was fair and complained to AIBMS. On J's behalf Ms M wanted AIBMS to further defend the chargeback as she didn't think they had properly done so in light of the further evidence submitted on 13 June.
- AIBMS took no further action on the basis they didn't think they'd done anything wrong. In essence they believed they'd dealt with the chargeback appropriately and in line with the terms and conditions of the Agreement. They said after the initial outcome they decided not to pursue J's defence further because they hadn't sufficient evidence to demonstrate J had provided the service its customer was contesting.
- Dissatisfied with AIBMS' response Ms M referred J's complaint to this service to look into.

Our investigator didn't uphold the complaint. On the substance of J's complaint, he didn't think AIBMS had done anything wrong. He said – in summary that AIBMS:

- Had discretion to consider the evidence and decide whether it was sufficient to defend the chargeback. In the event they did attempt to do so but ultimately were unsuccessful.
- Didn't act unreasonably when later they decided not to pursue J's defence further in light of their conclusion that they hadn't sufficient evidence regarding the services provided to J's customer.
- Acted fairly and reasonably when processing the chargeback and ultimately debiting J's account with the transaction amount when the chargeback was determined in favour of the cardholder.

J didn't agree with the investigator's conclusions and on its behalf Ms M has asked for an ombudsman to review the matter. She said – in summary that she believes AIBMS took the easy route which was to dismiss J's claim rather than doing their best for J as a client. In particular, because she believes she provided a considerable amount of evidence to AIBMS to support J's defence against the allegation that it hadn't provided the service to its customer.

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.

I start by acknowledging Ms M's strength of feeling on this matter. That is understandable given the unfortunate set of events that ultimately led to J being out of pocket for the £1,750 chargeback amount.

But having considered this case very carefully, I agree with the investigator's conclusions and for much the same reasons. I'll explain why.

Briefly, and by way of context, I should explain that chargeback is a process by which disputes are resolved between card issuers and merchants under the relevant card Scheme rules.

The process involves the card issuer, through a dispute resolution scheme that is operated by the relevant card network – in this case Mastercard - disputing on the card holder's behalf payments made on the card.

It's important to bear in mind that in chargebacks, the decision whether or not to approve chargeback claims is for the card scheme to make. In other words, AIBMS don't operate the Scheme or decide if a chargeback is successful. They can only decide whether or not to defend it which is the issue that is at the heart of this case.

The question, therefore, for me to decide in the circumstances of this case is not whether ultimately the right decision on the chargeback has been reached. Rather it is whether the financial business – AIBMS' - in this case - handled the chargeback request against J appropriately.

I've considered the Agreement referred to above as well as the accompanying terms and conditions. And, I've also had regard to AIBMS' Chargeback Dispute Handbook Procedure guide. In particular Clause 3 which is headed: "*What is a Chargeback Dispute*". This document explains the chargeback dispute process - including the procedure that is followed when a chargeback dispute is defended.

These documents explain that merchants accepting debit and credit card payments run the risk of being liable for chargeback disputes. They explain also that chargebacks that are disputed by the relevant cardholder and/or card Issuer, may be charged back to the merchant.

AIBM's responsibility during a chargeback dispute is to represent J as fairly as possible, which includes providing the card issuer with all supporting evidence and attempting to defend J. AIBMS did that. When they received documentation supporting the disputed transactions from J they attempted to defend the chargebacks with the card issuing bank. Unfortunately, this was unsuccessful. But as explained above ultimately, that wasn't a decision for AIBMS to make.

Having referred above to the action they took, I am satisfied that when the chargeback was first raised against J in April 2023, AIBMS dealt with things appropriately. However, as I've also noted the chargeback was successfully defended. But that was no fault of AIBMS'

This now brings me to the events that took place after 9 June 2023.

I've thought about J's case which essentially is that in spite of the initial successful defence of the chargeback, nonetheless it sent further detailed evidence to AIBMS on 13 June. J believes AIBMS should have used that further evidence in another attempt at defending the chargeback.

It is AIBMS' case that they reviewed the evidence. They said that from 7 June to 13 June one of their chargeback agents reviewed it and determined that they did not have a sufficient case to proceed further. In particular AIBMS maintained there was no copy invoice amongst the evidence to indicate the services agreed were provided to the cardholder.

Against that background they said they did not feel the criteria of proving the services were provided or the cardholder had been satisfied.

AIBMS' obligations in circumstances where a chargeback is raised against a merchant is already noted above. And this is confirmed in the Handbook as follows:

"If the Merchant supplies documentation, the team then assess the material for adequate defence."

With that in mind it is difficult to conclude AIBMS did not carry out the duties and responsibilities required of them in the chargeback process relating to this case. I do not therefore find they were at fault in the way they conducted that process.

I appreciate J is unhappy that its account was later debited with the chargeback which ultimately means it is out of pocket by the amount. However, I've had regard to the terms and conditions of the Agreement – in particular 13(a) which says:

13. Invalid Card Transactions/Chargebacks

(a) If a Card Issuer exercises its rights not to settle or to undertake a Chargeback, we will immediately, and without notice, be entitled, and you will allow us, to debit your Nominated Bank Account, or to recover from you by any other means, the amount paid by us to you in respect of that Transaction."

I'm satisfied AIBMS were entitled to debit J's account with the chargeback amount.

My final decision

Although I anticipate this will come as further disappointing news to J, for the reasons explained above my final decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask J to accept or reject my decision before 19 April 2024.

Asher Gordon
Ombudsman