

The complaint

Mr T complains that Transmit Start-Ups Limited mis-sold a loan and a franchise to him.

What happened

Mr T told us:

- In late 2022 he used a loan to purchase a franchise. At the time he was in a vulnerable position; he was deeply unhappy in his previous employment and desperate to find an alternative.
- He now considers that the person who sold him both loan and the franchise – who I will refer to as Mr M – took advantage of him. Mr M was also a director of the franchisor, and there was a clear conflict of interest.
- Mr M did not give him accurate information about the costs and benefits of going ahead with the franchise. Mr M told him that most franchisees greatly exceed the turnover and profits illustrated in the financial forecast he was shown, but he later discovered that his profits were much lower than he'd been told to expect – meaning that the loan was unaffordable.
- Most of the business details and figures on the loan application were entered by Mr M, and he had very little input of his own. Mr M even suggested changes to some of the figures he did enter, in order to accommodate increased purchase and expenditure costs.
- He had no direct contact with anybody from Transmit during the application process; everything was handled by Mr M.
- If he had known then what he knows now, he would never have gone ahead with either the loan or the franchise. He believes that he has been a victim of financial fraud, and that the franchisor and Transmit are jointly liable to him.
- To resolve his complaint, he would like the loan to be written off and for all the payments he has made to be refunded to him.

Transmit told us:

- It worked with several franchisors who introduced applicants to it. In some cases, individuals at those franchisors would assist applicants by providing business and financial information, based on their knowledge of the product and their experience of other franchisees' performance.
- Mr M was an "Associate" of Transmit, but it did not employ him. Associates were permitted to charge applicants for providing general business advice and guidance during the loan application process. There was a separate agreement between

applicants and Associates which Transmit was not party to. Transmit paid its Associates referral fees for introducing clients, but Associates were not permitted to charge a commission or percentage of the loan value.

- Mr T was under no obligation to work with Mr M. If Mr T had been in any way uncomfortable with Mr M's involvement Mr T could have chosen to complete the application himself. Mr T signed the loan agreement, which suggests that he was happy with everything submitted and wanted to receive the loan.
- It was not the lender in this case. It provided Mr T's details to the Finance Partner for the Start Up Loans scheme, and the Finance Partner was ultimately responsible for approving Mr T's loan, issuing the loan agreement, disbursing the loan to Mr T, and collecting repayments. However, the initial lending decision was Transmit's responsibility. It assessed all applications, including Mr T's against the lender's criteria.
- It accepted Mr T's application based on the information submitted to it. If it considers that the financials aren't realistic, or demonstrate that the loan is not affordable, it will either challenge the figures or make a decision to decline the application. In this case one of its loan assessors felt that the figures were realistic, and chose not to challenge them.
- Ultimately Mr T was responsible for submitting his own financial forecasts, whether he prepared them himself or had assistance from another party. Whilst it is sympathetic to Mr T's situation, it considers that most of his grievance is with the franchisor rather than with Transmit.

One of our investigators looked at this complaint, but did not uphold it. Transmit was not required to deal directly with Mr T, and it was Mr T's choice to work with Mr M. Overall, he thought Transmit's only responsibility was to assess and process Mr T's loan application – and he was satisfied that it had done so correctly. He also noted that the ultimate lending decision was made by the Finance Partner, and not by Transmit.

Transmit accepted our investigator's findings, but Mr T did not. He said that at the time he didn't realise that Mr M was working with Transmit. The only application he submitted independently was the initial Start Up loan enquiry form; all the other documents were reviewed by Mr M and amended as he thought necessary. Transmit did not comply with its own processes, in that it didn't speak to him and didn't email him final copies of documents for checking. He explained that he didn't think our investigator had properly investigated his concerns about Mr M's conflicts of interest. Finally, he provided evidence from the Finance Partner showing that Transmit approved his loan application.

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, whilst I am sorry to further disappoint Mr T there is very little I can add to what our investigator has already said.

I think the underlying problem here is that Mr T wishes he had not bought the franchise. It's clear that he has been through an extremely difficult time, but I don't think Transmit bears any responsibility for his decision to purchase the franchise. Mr M was not Transmit's employee, and Transmit was not responsible for Mr M's actions. That means I cannot consider anything Mr M did. In particular I can't investigate whether the financial projections

Mr M provided were realistic, and I can't investigate whether Mr M had any conflicts of interest.

In these circumstances, I don't think Transmit's failure to contact Mr T to check he was happy with the application documents made a material difference. At the time, Mr T was in fact happy with the documents, and so I don't think it would have changed anything if Transmit had directly spoken with Mr T. I acknowledge that his happiness appears to have been a result of his reliance on Mr M, but I don't think further contact from Transmit would have had any impact here.

I also think our investigator was right to say that the Finance Partner had ultimate responsibility for whether to advance the loan. Transmit made the decision to accept Mr T's loan application, but it did so based on the Finance Partner's criteria. I acknowledge that Mr T has said that he simply agreed with the figures Mr M gave, but as I've said I am satisfied that Transmit was not responsible for Mr M's actions. Mr T gave permission for those figures to be submitted to Transmit, and so I think it was fair for Transmit to use them. I don't think Transmit did anything wrong in relying on the information Mr T provided in his loan application.

It follows that I do not think it would be fair for me to order Transmit to refund any of the money Mr T has paid to the Finance Provider, nor would it be fair for me to order Transmit to repay the outstanding balance of the loan.

My final decision

My decision is that I do not uphold this complaint against Transmit Start-Ups Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 10 September 2024.

Laura Colman
Ombudsman