

The complaint

Miss D has complained about the way J.P. Morgan Europe Limited trading as Chase dealt with her request for money back.

What happened

The circumstances of the complaint are well known to the parties, so I won't go over everything again in detail. But, to summarise, Miss D made payments using her Chase debit card towards the cost of a holiday arranged with a company I'll call "S". The holiday was between 31 May 2023 to 7 June 2023. I understand the total cost of the holiday including flights and hotel was around £1,700. Miss D was unhappy with the hotel and said it was mis-advertised. She said there was no heated swimming pools as advertised and the food was terrible and on repeat. She said the hotel wasn't 4 star as advertised, and that she complained several times while she was there. She said the hotel was dirty and unclean. She also said she found out the holiday wasn't protected by the Association of British Travel Agents (ABTA) when it was advertised as such. She said she'd contacted ABTA and was told S had left in 2020. She highlighted she wouldn't have gone on the holiday had she known.

Miss D said S acknowledged it had made a marketing error and offered her £300 which she refused. She said she contacted another financial service provider who'd she'd also made payments to S through, and it offered her a refund. Miss D said she wanted a full refund for the holiday and requested Chase refund her everything she'd paid using her Chase card.

Chase responded to Miss D's complaint and said upon investigation the claim for service not as described wasn't eligible for a chargeback because Miss D had used the service. I think it offered her a £10 goodwill gesture. Miss D wasn't happy with the response so referred her complaint to the Financial Ombudsman.

Our investigator looked into the complaint and didn't think Chase had handled the claim fairly. She said Chase could have used the chargeback dispute code relating to defective services because S didn't honour the terms and conditions of the contract due to it not offering ABTA protection. She said it was reasonable for Miss D to have relied on S's assurances about ABTA protection before booking the holiday. Our investigator said Chase should refund Miss D the amount she paid S using her Chase debit card which was around £500. She said it should add 8% interest on top of that and pay £100 compensation. Chase didn't agree with the assessment for various reasons. It said it couldn't use the chargeback condition for services not provided because Miss D went on the holiday. It questioned whether Miss D had accepted a part refund from S. And it wanted further evidence the service wasn't as described.

I issued a provisional decision that said:

I want to acknowledge I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to decide matters quickly and with minimum formality. But I want to assure Miss D and Chase that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't

considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

What I need to consider is whether Chase – as a provider of financial services – has acted fairly and reasonably in the way it handled Miss D's request for getting money back. It's important to note Chase isn't the supplier. I've gone on to think about the specific card protections that are available. In situations like this, Chase can consider raising a chargeback.

The chargeback process provides a way for a card issuer to ask for a payment to be refunded in certain circumstances. The chargeback process is subject to rules made by the relevant card scheme. It's not a guaranteed way of getting money back.

While it's good practice for a card issuer to attempt to chargeback where certain conditions are met and there's some prospect of success, there are grounds or dispute conditions set by the relevant card scheme that need to be considered. If these are not met, a chargeback is unlikely to succeed. And something going wrong with a merchant won't always lead to a successful claim.

Other than being unhappy with elements of the holiday, Miss D's argument is that if she'd known S wasn't affiliated to ABTA, she wouldn't have bought the holiday. And she's also said that part of the service she paid for – the ABTA affiliation – wasn't provided. Miss D has shown us a copy of what looks like an email from S in June (presumably 2023) promoting a holiday, and it had ABTA's logo on it. But it wasn't for the holiday Miss D went on. Even if I were to accept S mis-advertised its affiliation with ABTA on that email, I've not seen Miss D was induced into purchasing her holiday as a result of S saying the holiday would be covered by ABTA.

Moreover, it's not clear Miss D's holiday would have been covered by ABTA in any event. I understand ABTA covers holidays purchased in the UK that don't include flights. There's a protection scheme that's applicable in Miss D's scenario with the Air Travel Organisers' Licensing (ATOL). And from looking at Miss D's contract, she paid £10 towards an ATOL fee. I've checked the ATOL website, and it looks like S is a member.

I've not seen enough to demonstrate S induced Miss D into buying her specific holiday through its marketing of ABTA. I therefore don't think there'd have been an applicable chargeback Chase could have pursued on that basis – based on the evidence I've seen. While I appreciate Miss D obtained a refund through another financial service provider, I don't know the circumstances of that, and I need to consider the individual merits of her complaint against Chase. I can't simply tell Chase to honour the claim because another firm has refunded Miss D.

Even putting all of that to one side, Chase could have decided to raise a chargeback for defective services because Miss D was unhappy with the quality of the holiday. She may have been able to claim for a portion of the hotel booking cost (i.e., not the whole cost of the holiday). But I'm mindful she didn't supply sufficient supporting evidence for that part of her claim. And some of the things she was unhappy about were subjective. Moreover, I understand she received a significant refund through the chargeback raised with another financial service provider. So even had Chase decided to raise the chargeback I think S would've had a valid defence given the refund she'd received. I don't think there'd have been a reasonable prospect of success had Chase raised the chargeback.

Therefore, while I know Miss D will be unhappy, and while I don't necessarily agree with all of Chase's reasoning, I've not seen enough to conclude its overall answer to the claim was unfair. So I'm not intending to make any directions.

Miss D responded to say she didn't agree. She said the marketing emails clearly stated the customer is protected by ABTA. I can't see we received a response from Chase.

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'd like to thank Miss D for her response. I'm not disputing S incorrectly said it was an ABTA member. But as I explained in my provisional decision, I don't think ABTA would have covered the holiday, even if S was a member. So I don't think Miss D was induced into buying the holiday on that basis. Moreover, I've also explained why I don't think there'd have been a reasonable prospect of success for a chargeback for a portion of the service given the evidence I've seen.

Seeing as though I've not been provided anything materially new to consider, I see no reason to depart from the conclusions I reached in my provisional decision.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 26 March 2024.

Simon Wingfield
Ombudsman