

The complaint

Mr A complains that Curve UK Limited has irresponsibly allowed him to make payments and that it is now asking him to repay a payment it made to one of his creditors.

What happened

Mr A has a Curve account and uses its 'Fronted' facility. This enables a customer to make payments 'through' Curve to merchants and creditors that may not otherwise accept payments from credit cards. He complains about the following:

- Curve processed a payment to one of his creditors when he didn't have the money needed to make the payment in the account Curve took the money from. He is unhappy that Curve made this payment itself and is now holding him liable for the amount of the payment.
- Curve processed payments when it should have been apparent to it that he was in difficulties because he was paying a number of creditors. He later told Curve that this was because of an underlying gambling addiction. He feels that Curve should have noticed these payments and not made them. He is also unhappy that Curve has applied fees for making these transactions.
- Curve has continued to apply subscription fees while his account was suspended

Curve responded to Mr A's complaint and maintained that it had acted fairly. It said that the terms of the Fronted facility explained that it could make a payment even where there weren't the required funds in the underlying account. Curve said it made that payment to ensure a 'seamless experience'. So it was satisfied it was entitled to hold Mr A liable for the amount of that transaction.

Curve said that there were no indicators of gambling on Mr A's account and he didn't make it aware of his situation either. It explained that it had contacted him previously about the spending on his account and Mr A continued to use his account as he did in light of this contact. In terms of the fees it applied for these payments, Curve explained why it applied these and explained where the information about these fees could be found.

Curve refunded two months' worth of subscription fees while his account was blocked, but didn't think it had done anything wrong. Mr A brought his complaint to this service where one of our investigators looked into it. They felt that Curve had acted fairly, but Mr A disagreed, so the complaint was passed to an ombudsman to decide.

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.

Mr A has raised several points in relation to this complaint. For ease of reading, I'll address them below under separate headings.

Allowing the payment to a creditor

In July 2023, Mr A instructed Curve to make a payment to one of his creditors using its Fronted facility. This allows for a customer to make a payment from a credit card but using a Curve debit card. Curve explains that this facility *“empowers you to pay with your Curve debit card by using an underlying credit card in situations where the merchant wouldn’t normally accept credit cards.”*

The underlying credit card account didn’t have enough money available, so Curve made the payment for Mr A itself. That means that the money wasn’t taken from the underlying credit card - instead, Curve met the payment itself and is now asking Mr A to pay *it* back this amount.

Mr A has asked whether allowing this payment was an ‘error’. Curve maintains that it’s not. It has explained that it does this to assist customers and to maintain a ‘seamless experience’ for them. It’s also explained to this service in some detail that the payment instruction was originally authorised by the underlying creditor. It was only when Curve went to take the next step in the payment process that an error was reported. Because of this ‘original’ authorisation, Curve made a decision to step in and cover the funds.

So it seems like this is a decision that Curve made in the very individual circumstances here. It seeks to rely on its terms which say:

"In case Curve receives a decline from the payment source selected in the Curve app, we may try to process the transaction from the payment source that you have set as your default or back up source, including your Curve Cash card."

Curve has also highlighted another section of its terms:

"In the event you owe Curve money either for fees or transactions that you have made using Curve, or missed subscription fees, we may immediately charge such amounts to any of your payment cards. We reserve the right to collect the amount of your debt to Curve by using any payments received to your Account. We may also recover amounts you owe us through legal means, including, without limitation, through the use of a debt collection agency."

In my view, the terms don’t specifically address the fact that Curve can take the sort of action that it has here. So I can see why Mr A was surprised that this happened. But my role is to decide what’s fair and reasonable in the individual circumstances and Curve’s terms only form part of my considerations here.

I think it’s fair to say that the use of the Fronted facility here has led to an unusual and perhaps unexpected situation for Mr A. But in thinking about whether this is a fair situation for him to be in – Mr A wanted to make a payment and he told Curve that he wanted to use this facility to use a particular card. So, strictly speaking, Curve was just following Mr A’s instruction as a customer.

It could have declined the transaction– but it made a decision not to in the circumstances. I don’t think that has led to an unfair outcome for Mr A here. It seems like the debt to the creditor was legitimately owed and so his position has only been affected in the sense that he now owes Curve this money, rather than the other creditor. Curve seems to have acted fairly in respect of asking him to pay this back. It doesn’t appear to be adding any interest to the amount that’s owed and has suggested it’s willing to discuss the situation with Mr A to arrange a suitable and affordable way of him paying this back. I’ve not seen anything that suggests that Mr A has been left in a worse position as a result of what Curve has done.

So even though I don't think Curve's terms are as clear as they could be on this point and I accept it is an unusual situation for Mr A to find himself in – I'm not persuaded that it's an unfair situation, or that Curve has made his position any worse than it would otherwise have been.

Curve allowing Mr A to make payments that were being used for gambling

I'm sorry to hear about Mr A's financial position and gambling problem – and I thank him for his honesty in telling this service about his circumstances. I've carefully considered what he's told us alongside what Curve has said too.

Curve says that Mr A never told it about his gambling problem and that it wasn't aware of this. It says that gambling transactions aren't allowed by Curve and would be automatically declined if attempted. That is in line with what I've seen of Mr A's Curve statements, which is that there are no clear gambling transactions. Curve has explained that it doesn't allow gambling through its Fronted facility – which is explained in its Terms of Use and so I can't see any reason that Curve could have been aware that Mr A had a gambling problem from how he was using his account with it, or the Fronted facility.

I think it's reasonable that Curve says it was only aware of this when he told it in September 2023. But Mr A's point is wider than that – he says that Curve should have been aware that he was experiencing financial problems because of how he was using his account – using credit to pay off credit, for example. He thinks Curve should have done more, such as asking him for bank statements to establish the true reasons behind his payments. He also thinks it's unfair that Curve has charged him fees on these payments when it was irresponsible in making them.

Mr A used Curve's Fronted facility to make many of these payments – this means that he has been able to use money from an underlying credit card in order to pay off debts held with other creditors. Curve then applies a fee for those transactions. Many credit card providers won't accept payments from other credit cards, apart from a common exception where the payment is a balance transfer.

Curve's Fronted facility is different though. This allows a customer to make regular payments to credit cards using the funds from another underlying credit card. Curve is entitled to decide on procedures and systems like this and it's not for this service to tell it otherwise. But as stated elsewhere in this decision, I can consider whether such an approach has led to a fair outcome in the individual circumstances of a complaint.

Mr A was clearly making a number of payments to credit cards and to other lenders. But I'm mindful that in making these payments - Curve wasn't acting as a lender, or a bank. It was facilitating payments from Mr A's other banks and lenders to other merchants, banks and lenders. So while Curve would have had *some* detail of the payments Mr A wanted to make, Curve couldn't understand the full context of the payments it was being asked to facilitate in the same way that the banks and lenders behind the payments would.

I've taken account of the fact that Mr A's usage of his Curve account does show a relatively high number of payments being made to credit card and loan companies. But, equally, I don't think Curve could have been aware of any underlying difficulties that he may have been having unless he told it about these. Mr A was using his Curve account a lot – especially the Fronted facility, but that's in line with the nature of Curve's services which are as a digital wallet and card aggregator – to make it easy for customers to use a variety of payment sources through one app.

I've also seen instances where Curve has stepped in to review Mr A's transactions and

account – and has highlighted that he is using his Curve account ‘predominantly’ for money transfers and payments to credit merchants and provided links to its terms of service and policies.

For example, I’ve seen that in November 2022, Curve asked Mr A for details of his income, certain bank statements and information to show how he pays off the balances of his credit cards. Curve says that the information it received from Mr A at this time satisfied it that he could continue using the account to make payments.

So I’m satisfied that Curve did act fairly when it had concerns about the conduct on Mr A’s account. But in the circumstances here, it didn’t have concerns in relation to the payments Mr A made after this review in November 2022. I think that’s a reasonable position for it to take.

Curve applying fees and charges

Mr A is unhappy with the fees Curve has applied to the Fronted payments it’s facilitated. He is unhappy that it has applied fees to the payments he says it has irresponsibly allowed and that it has applied subscription fees when his account was suspended. As mentioned elsewhere in this decision – I don’t think Curve has acted irresponsibly or unfairly in processing payments as it has. But I have thought about whether it was fair for Curve to apply fees to these payments.

Mr A doesn’t seem to be saying that he was unaware of the fees – only that it wasn’t fair for Curve to apply them in the circumstances here. Curve has explained that Mr A would have agreed to the terms and fees when he signed up to its services and when he upgraded to its ‘Metal’ tier of service too.

I note that Curve has applied the fees to the Fronted transactions in line with its policy for such fees. Mr A had a certain allowance where he could use the Fronted facility without charge, but then when he has exceeded that threshold – Curve has applied the relevant fees for this. Mr A was aware of the facility he was using and so I see no reason that these fees have been unfairly applied here.

Finally, Mr A is unhappy that Curve applied subscription fees while his account was blocked. Curve has explained that it refunded two months’ worth of fees as gesture of goodwill in response to Mr A’s complaint. That represents all of the fees that Mr A was charged while his account was suspended, because as of the end of September 2023, Mr A’s account was downgraded in a way that means subscription fees are no longer applied. So I think this is a fair and helpful gesture.

So overall, I am satisfied that Curve has acted fairly and reasonably in relation to the issues Mr A is unhappy with. As I understand it, Mr A’s Curve account remains blocked and the amount that Curve is asking him to repay for the credit card payment is outstanding. I would encourage Mr A to speak to Curve about his circumstances to see if he can agree a way forward in respect of this situation.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr A to accept or reject my decision before 25 July 2024.

James Staples
Ombudsman