

The complaint

Ms C complains about how American Express Services Europe Limited (“Amex”) handled a claim she made in relation to a transaction on her credit card.

What happened

Ms C says she intended to purchase festival tickets from a company I’ll refer to as “S” in June 2023. She said she placed the tickets in her basket and was awaiting confirmation from other people to book the tickets. She said after a child was playing with her phone, she realised the order for the tickets had been accidentally placed through her Amex credit card. The cost of the tickets was £4,202.97.

Ms C says she contacted S and it told her it couldn’t cancel the tickets until these had been issued. She said S later told her by email she couldn’t get a refund and that she would have to resell the tickets. In July 2023, Ms C asked Amex to dispute the payment. She said she was told it would do this, but it later asked her for further information. Ms C says when she called Amex to provide this information, she was told that she couldn’t dispute the payment with S. She said this left her with five days to sell the tickets, she lost a week in being able to sell the tickets whilst waiting for Amex and she was unlikely to be able to sell them.

Amex issued its response to Ms C’s complaint in August 2023. It said Ms C hadn’t provided it with the requested documentation and so, it couldn’t assist her under the chargeback scheme. It said it hadn’t told Ms C not to resell the tickets at any point and it didn’t provide any guarantees that Ms C would be able to obtain a refund.

Unhappy, Ms C referred a complaint to this service in April 2024. She said she was responsible for the purchase, but she tried to call S immediately to cancel. She said Amex caused delays in its investigation and by the time she was told to go sell the tickets, they had dropped hugely in value. She said she specifically asked whether she should sell the tickets at the start of her dispute with Amex and she was told to wait. She also said she was unhappy in the way that Amex had handled her dispute. She said it had caused delays, sent her incorrect information and tried to bully her to prevent her to take her complaint forward. To put things right, Ms C said she wanted a full refund and an apology from Amex.

Our investigator initially said this service couldn’t consider Ms C’s complaint as she had referred it too late and Amex hadn’t provided its consent to this service to consider Ms C’s complaint. However, Ms C provided further information about her circumstances. Our investigator shared this information with Amex and upon review, it provided its consent for this service to consider Ms C’s complaint.

Our investigator looked into the complaint but didn’t think Amex had acted unfairly. He said S’s terms and conditions confirmed tickets purchased were non-refundable and the circumstances Ms C had described about the purchase weren’t covered under the rules. So he said he didn’t think there would be any rights under the chargeback scheme. He also said he didn’t think Amex wasted Ms C’s time as it didn’t provide any guarantees about a refund being provided and Ms C could have chosen to resell the tickets. He also said there was no breach of contract or misrepresentation under section 75 of the Consumer Credit Act (“s75”).

Ms C disagreed with the investigator and as Ms C remains in disagreement, the case has been passed to me 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.

I've read and considered the whole file and acknowledge that Ms C has raised a number of different complaint points. I've concentrated on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it – but because I don't think I need to comment on it in order to reach what I think is the right outcome. The rules of this service allow me to do this.

Generally, where a consumer raises a dispute about a transaction made on a credit card, the card provider can consider the dispute in two ways –chargeback and s75.

In this case, Ms C hasn't referred a claim to Amex under s75 and neither has Amex considered one. Ms C should contact Amex in the first instance if she wishes to pursue this avenue.

In light of this, what I need to decide in this case is whether Amex should have raised a chargeback and whether it acted unfairly or unreasonably in any other way. If I think it has acted unfairly or unreasonably, I'll need to decide what's fair, if anything, to put things right.

Chargeback

A card issuer can attempt a chargeback in certain circumstances when a cardholder has a dispute with a merchant – for example where goods never arrived or where goods are faulty and not as described. Before a chargeback can be initiated by a card issuer, like Amex, it's generally expected that the cardholder will have attempted to resolve matters with the merchant first.

Chargebacks aren't decided on the merits of the dispute between the cardholder and merchant, but rather they're decided on the relevant card scheme's rules. Chargeback isn't a legal right and there's no guarantee the card provider will be able to recover the money this way. In this case, the guidelines are set by Amex as the scheme provider.

Having considered everything, I don't think that there is an exact chargeback rule that fits the complaint Ms C made. The closest rules which may have applied would be card not present or no valid authorisation. However, Ms C initially said that she must have accidentally made the purchase, but she later confirmed that purchase was made whilst a child had access to her phone. Either way, Ms C has accepted she is responsible for the purchase. The requirements of these rules mean that because of Ms C saying she was responsible for the purchase, no chargeback claim could have been raised under these rules. So, I'm not persuaded that Amex acted unfairly when it didn't raise a chargeback as the circumstances Ms C described didn't fit any of the chargeback rules set out by the scheme provider.

Did Amex act unfairly or unreasonably in any other way?

Ms C has said that Amex caused delays in raising a dispute and this caused her to miss out on reselling the tickets when the prices were at their peak. She also said she was told not to resell the tickets but later told she could. Finally, Ms C said Amex had tried to prevent her from bringing a complaint and sent her information about a different dispute.

I've reviewed the call notes between Ms C and Amex. I can see that Amex told Ms C it would be happy to dispute the charge and it would contact the merchant to try and get the money back. Amex said it had suspended the charge, it would notify Ms C of the resolution of the dispute within six to eight weeks and let her know if it required any documentation. The same day it wrote to Ms C and asked her to contact it as it didn't have enough information to investigate the dispute. It asked Ms C to contact it before 14 July 2023. Ms C contacted Amex on 11 July 2024 via webchat and was told to call Amex. She did this the next day and was told she couldn't dispute the charge with S. Amex told Ms S that S's website explained

the tickets were non-refundable, so there was no chance the dispute would end in her favour unless it was a fraudulent purchase. However, this wasn't the case.

Having reviewed this, it doesn't appear that Amex provided any incorrect information to Ms C. It followed the process of suspending the payment and then requesting further information from her. It then made a decision not to raise a chargeback claim, as it didn't think there was a reasonable prospect of success. It let Ms C know this within 10 days of her raising the initial dispute with it. And it requested further information the same day Ms C initially contacted it. So, I'm not persuaded that Amex caused any unreasonable delays here.

I also understand that Ms C says Amex told her not to resell the tickets. I can see that when Ms C initially contacted Amex, she let it know that she received an email from S explaining she couldn't cancel the tickets and she would have to resell them. Ms C asked if she should continue to dispute the transaction with S or if she should leave it to Amex. Amex said she could wait and if required, its team would contact S and update Ms C. Following this, around 10 days later, after Amex told Ms C it couldn't raise a chargeback, Ms C said she assumed the dispute was going ahead and didn't list the tickets for resale out of fear that they would sell and so she would lose out completely. She said this left her with five days to sell the tickets after the price had peaked.

I appreciate why Ms C is unhappy about what has happened here. I understand she was worried that she may be able to resell the tickets and then lose out on her ongoing dispute. However, I'm not persuaded that Amex told Ms C at any point she couldn't resell the tickets whilst a dispute was ongoing. I think Amex made it clear that she could choose to wait and Ms C didn't at any point explicitly ask Amex whether she could resell the tickets. Amex also asked Ms C to contact it the same day she raised the dispute and I've already said I don't consider any delays were caused by Amex. So I don't consider that Amex told Ms C she couldn't sell the tickets which resulted in her not being able to resell them during their peak period.

In relation to Ms C's complaint about Amex preventing her from bringing a complaint to this service and sending her information about a different dispute, this took place in December 2023. This was after Amex had issued its final response to Ms C in August 2023 and which explained that she had the right to refer her complaint here for an independent review. So Ms C already had what she needed to refer her complaint to us and I'm not persuaded that it attempted to prevent her from escalating matters.

Equally, if Ms C is unhappy with the later information Amex sent to her or any delays caused as a result of this, she'll need to refer this to Amex in the first instance as this service is unable to consider a complaint without providing an opportunity for the respondent business to consider it first.

I understand that Ms C is likely to be unhappy about the outcome of her complaint given that the amount paid for the festival tickets was high. I am also sorry to hear about the personal circumstances Ms C has told this service about. I would like to take this opportunity to remind Amex that if Ms C is suffering from financial difficulties, it should treat her with forbearance and due consideration.

My final decision

My final decision is that I do not uphold Ms C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 15 April 2025.

Sonia Ahmed
Ombudsman