DRN-5657796

The complaint

Mr R complains that JAJA Finance Limited has not met its obligations in regard to transactions he made on his credit card to pay for a Timeshare type agreement.

What happened

In July 2015 Mr R and Mrs R entered into a timeshare type agreement and paid for this agreement by using Mr R's JAJA Finance Limited credit card. The contract for the Timeshare was with a company I shall call 'Firm K.' His credit card statements from the time shows he actually paid over a number of months a different company, a trustee company, which I'll call 'Firm F'.

Later, unhappy with timeshare type arrangement he had, Mr R took his dispute to JAJA, pointing to its obligations under the Consumer Credit Act 1974 (CCA for short) and seeking redress for the timeshare he'd paid for. But it chose not to refund him. So, he brought his complaint to this service.

Our Investigator considered the matter and felt that JAJA hadn't treated Mr R unfairly. So, this dispute came to me for decision.

I issued a provisional decision dated 12 June 2025 which didn't uphold Mr R's complaint albeit for different reasons to that of the earlier assessment. In essence I felt the High Court ruling in the case of Steiner v National Westminster Bank plc [2022] EWHC 2519 ('the Steiner case') was relevant and thus it was fair not to uphold this complaint about JAJA.

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.

Neither JAJA or Mr R or his representatives made any arguments in response to my provisional decision. JAJA didn't respond at all. Mr R's representatives acknowledged receipt, noted that their client didn't agree but had nothing further to add. As the deadline for responses has passed, and I'm satisfied that the decision was correctly sent to the parties I see no reason for further delay here. As I've not received any persuasive reason to deviate from my provisional thinking on the matter, I maintain my position as set out previously and below. Accordingly for the following reasons this complaint does not succeed.

I should make clear that this decision is not about Firm K or Firm F. This is because these companies aren't within the jurisdiction of this service regarding the considering of claims under the CCA by creditors. This decision is solely about what JAJA did or didn't do, in relation to its obligations in relation to Mr R in its capacity as his provider of credit through his credit card.

I should add that although both Mr R and Mrs R entered the timeshare agreement, I'll be referring to Mr R in this decision as it was his credit card used to fund the transactions. So,

it's only he who can make a claim to JAJA regarding his credit card account with it and his dispute with Firm K.

Mr R doesn't contest that he made the transactions originally, or that they were applied incorrectly to his account. So, I think JAJA treated the transaction correctly at the time. And he didn't take the dispute regarding his timeshare to JAJA for some significant time after the transactions happened. So, I'm satisfied the only way JAJA could have looked at this dispute regarding this Timeshare is under its obligations under the CCA.

So, I now consider the crux of this dispute, which is whether JAJA has treated Mr R fairly in regard to the issue of not refunding him, which to my mind rests on the issue of who Mr R paid and who his contract for the Timeshare was with. When doing so, I'm required by DISP 3.6.4R of the Financial Conduct Authority's Handbook to consider the:
"(1) relevant:
(a) law and regulations;
(b) regulators' rules, guidance and standards;
(c) codes of practice; and
(2) ([when] appropriate) what [I consider] to have been good industry practice at the relevant time."

The CCA introduced a regime of connected lender liability under Sections 56, 75 and 140A that afforded consumers ("debtors") a right of recourse against lenders ("creditors") that provide the finance for the acquisition of goods or services from a third-party merchant (the "supplier").

However, in order to engage the connected lender liability under Sections 75 and 140A one of the pre-requisites is the existence of a relevant debtor-creditor-supplier agreement (often shortened to 'DCS Agreement'). And in light of the High Court case of Steiner v National Westminster Bank plc [2022] EWHC 2519 ('the Steiner case'), I'm not persuaded there was a DCS Agreement between Mr R, JAJA and Firm K. And as that means that JAJA didn't and doesn't have any responsibility for the CCA claims in question, I don't think it needs to do anything to put things right in this complaint. I say so for these following reasons.

A DCS Agreement is defined by Section 12(b) of the CCA as "*a restricted-use credit agreement which falls within section 11(1)(b) and is made by the creditor under pre-existing arrangements, or in contemplation of future arrangements, between himself and the supplier […]".*
Section 11(1)(b) of the CCA says that a restricted-use credit agreement is a regulated credit agreement used to "*finance a transaction between the debtor and a person (the 'supplier') other than the creditor […] and "restricted-use credit" shall be construed accordingly*."

In the Steiner case, the High Court looked at the application of Sections 56, 75 and 140A of the CCA and considered the circumstances in which the necessary arrangement can be said to exist. I should note that not only are the legal issues in Steiner similar to those in Mr R's case, but I should add some of the parties (not all) are the same also. In the Steiner case, the late Mr Steiner purchased a timeshare from a company I'll call "Company C" for £14,000 using his credit card, which had been issued by National Westminster Bank PLC ('NatWest'). So, in accordance with the CCA, NatWest was the "creditor", the late Mr Steiner was the "debtor" and Company C was the "supplier".

But rather than paying Company C directly, the £14,000 payment was made by the late Mr Steiner (using his NatWest Mastercard) to Firm F (the same company as Mr R paid here) – the Trustee under a Deed of Trust to which Company C was a beneficiary. As a result, the estate of the late Mr Steiner (the 'Estate') had to demonstrate that the Credit Agreement fell within the meaning of Section 12(b) of the CCA i.e., that it was made "*under pre-existing*

arrangements, or in contemplation of future arrangements" between NatWest and Company C. But the High Court wasn't persuaded the Estate had done that. And in reaching that conclusion, the Court held that "arrangements" could not be "*stretched so far as to mean that NatWest made its agreement with the late Mr Steiner under the Deed of Trust (of which it was presumably unaware) as well as under the Mastercard network*."

The central question in Steiner and in this case here, therefore, is not whether "arrangements" existed between the creditor and the timeshare provider when the Timeshare was sold. Instead, the question posed by Section 12(b) is whether the relevant credit agreement was made by the creditor (in this case JAJA) under pre-existing arrangements, or in contemplation of future arrangements, between it and the timeshare provider (in this case Firm K).

In other words, the starting point for the purposes of Section 12(b) is the date that JAJA and Mr R entered into the Credit Agreement – rather than the Time of Sale of the Timeshare. Yet, in the absence of evidence to the contrary, it is difficult to argue that JAJA issued Mr R with his credit card and entered into the Credit Agreement relating to that card under, or in contemplation of, any arrangements other than the relevant card network here.

And while there may well have been arrangements between JAJA and Firm F (that is through membership of the card network present here) and arrangements between Firm F and Firm K, similar to that as the High Court recognised in Steiner, the natural and ordinary meaning of Section 12(b) did not extend to saying that JAJA entered into the Credit Agreement with Mr R under both the relevant card network and the Trustee-Supplier Arrangement between Firm F and Firm K (or under both the relevant card network and any other arrangements which parties to that network might have had with third parties) – nor could Section 12(b) be interpreted as saying that JAJA had entered into the Credit Agreement with Mr R in contemplation of the Trustee-Supplier Arrangement (or in contemplation of any other arrangements which parties to the relevant card network might have had with third parties).

I recognise that the judgment in Office of Fair Trading v Lloyds TSB Bank Plc [2007] QB 1 ('OFT v Lloyds TSB') by the Court of Appeal is authority for the proposition that there can be arrangements between a creditor and a supplier without there being a direct contract between them. But a significant feature of the factual situation addressed in OFT v Lloyds TSB was that all parties to the card network in question in that case were party to the same network, whether or not they had direct contractual relations with one another. That network, which had rules, constituted 'arrangements' between all of its members. So, it was said by the High Court in Steiner that OFT v Lloyds TSB isn't authority for the proposition that, if there are arrangements between a creditor and X, and if there are also arrangements between X and a supplier, then it necessarily follows that there are arrangements between the creditor and the supplier.

Under Section 187 of the CCA, there are also ways in which there might exist a DCS Agreement even if a supplier isn't paid directly using a credit card. For example, if Firm F and Firm K were 'associates' as defined by Section 184 of the CCA, there might have been the right arrangement in place at the right time. But I haven't seen anything sufficient to persuade me that's the case here. And although Mr R's representatives may have speculated about the relationship between Firm F and Firm K, they haven't demonstrated the definition of 'associates' as set out in section 184 is met here through any evidence that they've supplied to this service.

Overall, therefore, given the facts and circumstances of this complaint, I don't think I it would

be fair or reasonable to find that JAJA was and is responsible for the Firm K's alleged failings at the Time of Sale, when the law doesn't impose such a liability on JAJA in the absence of a relevant connection between it and Firm K.

So considering the matter in the round, including the positions of the parties since my provisional decision, it is my decision that this complaint should not be successful.

My final decision

I do not uphold this complaint against JAJA Finance Limited. It has nothing further to do in this matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 28 July 2025.

Rod Glyn-Thomas
Ombudsman