

## **complaint**

Mr A, who is represented by a solicitor, complains that Vanquis Bank Limited rejected his claim under Section 75 Consumer Credit Act 1974 in respect of the purchase of software.

## **background**

While on holiday abroad Mr A and his wife were told they had won a prize in a draw and had to attend a sales pitch before collecting the prize. They say that they were pressurised into buying a software browser at a cost of £4,550. Mr A says they were offered numerous free excursions and holiday vouchers during the meeting. They bought the package, paying the deposit with Mr A's credit card and the balance direct from their bank account later.

After making the final payment Mr A found he was unable to sign in to the browser and so he contacted the merchant. He received a call back a few days later to be told that the software was no longer available but he would have to use an alternative package. Mr A says the alternative package doesn't give them access to cheaper holidays which is what they had thought they were buying. He also says that he only received one of the four vouchers he was offered.

The bank rejected the claim and also the complaint made by the solicitors on Mr A's behalf. The matter was reviewed by one of our adjudicators who didn't recommend that it be upheld. She asked for further evidence from both the bank and Mr A, but little was forthcoming. In particular Mr A didn't provide evidence of requesting vouchers by email as he was required to do under the agreement. Nor was there any evidence that the alternative software wasn't a reasonable replacement.

Mr A didn't agree and reiterated that he had been the victim of a scam.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

While I have every sympathy with Mr A I find myself in agreement with the adjudicator. He and his wife bought a software package which I gather was intended to give them access to reduced cost holidays. I understand the alternative package does provide them with reduced cost holidays, but Mr A says they can obtain the same or better prices on other internet sites.

I have reviewed the documents they signed and these confirm that they made the purchase freely and without pressure. The signed documents also confirm that they were buying software product and not a membership or timeshare. The seller stated that it wasn't affiliated with any timeshare or exchange company. The agreement says there is no cooling off period, but as the adjudicator noted there was no evidence that Mr and Mrs A made any attempt to cancel the agreement within a standard cooling off period.

If a merchant fails to supply what was agreed I would regard an alternative product of a similar type to be a reasonable response. In the absence of any other evidence I cannot say if the replacement package is a suitable replacement. Based on what I have seen I can't safely conclude that it wasn't. Nor have I seen any evidence that Mr A requested the holiday vouchers as he was required to do and that the merchant failed to supply them.

I can appreciate why Mr A considers he has been the victim of a scam, but I don't have sufficient evidence to show there has been either a breach of contract or misrepresentation. As such I am unable to uphold his complaint.

**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 26 September 2016.

Ivor Graham  
**ombudsman**