

## **complaint**

Miss O says Capital One (Europe) plc mis-sold her a payment protection insurance ("PPI") policy.

## **background**

This complaint is about a credit card PPI policy taken out in 2000. The policy was added to Miss O's credit card account at some point after the card had been set up.

Our adjudicator upheld the complaint. Capital One disagreed with the adjudicator's opinion so the complaint has been passed to me.

## **my findings**

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

We've set out our general approach to complaints about the sale of PPI on our website and I've taken this into account in deciding Miss O's case.

I've decided to uphold Miss O's complaint because I can't see how Capital One made her aware that she had a choice about the PPI, or how it gained her agreement to it being added to her account.

Capital One says that Miss O was sold the PPI during a telemarketing call. It doesn't have a recording of that conversation. So it's referred us to a call script, which it says shows that its salesperson would've asked Miss O to confirm that she wanted PPI added to her account.

But this call script applied to a number of other types of telephone sales. I can't be sure it applied to the sale of Miss O's policy. And as a result, I don't know how Capital One presented the policy to Miss O during that call, or what steps it took to get her agreement to the PPI before it was added to her account.

Miss O says she didn't ask for PPI to be added to her account, and that she didn't know she had it. On her credit card application form, I can see that Miss O didn't indicate that she wanted PPI. Looking at everything, I think it's most likely Miss O took out the policy even though she didn't really want it. And I don't think Miss O would've bought the policy if it had been made clear that she had a choice about it.

I've taken into account Capital One's comments. But I still think I should uphold Miss O's complaint.

## **what Capital One should do to put things right**

Capital One should put Miss O in the financial position she'd be in now if she hadn't taken out PPI.

- A. Capital One should find out how much Miss O would have owed when the credit card account closed if the policy hadn't been added.

So, it should remove the PPI premiums added, as well as any interest charged on those premiums. It should also remove any charges that were caused by the mis-sale of the PPI – as well as any interest added to those charges.

Capital One should then refund the difference between what Miss O owed when she closed her account and what she would have owed if she hadn't had PPI.

If Miss O made a successful claim under the PPI policy, Capital One can take off what she got for the claim from the amount it owes her.

- B. Capital One should add simple interest on the difference between what Miss O would have owed when she closed her account from when she closed it until she gets the refund. The interest rate should be 15% a year until April 1993 and 8% a year from then on.<sup>†</sup>
- C. If – when Capital One works out what Miss O would have owed each month without PPI – Miss O paid more than enough to clear her balance, Capital One should also pay simple interest on the extra Miss O paid. And it should carry on paying interest until the point when Miss O would've owed Capital One something on her credit card. The interest rate should be 15% a year until April 1993 and 8% a year from then on.<sup>†</sup>
- D. Capital One should tell Miss O what it's done to work out A, B and C.

<sup>†</sup> HM Revenue & Customs requires Capital One to take off tax from this interest. Capital One must give Miss O a certificate showing how much tax it's taken off if she asks for one.

### **my final decision**

For the reasons I've explained, I uphold Miss O's complaint.

Capital One (Europe) plc should pay Miss O compensation in line with the instructions set out above.

Under the rules of the Financial Ombudsman Service, I am required to ask Miss O to accept or reject my decision before 11 April 2016.

Claire Marsh  
**ombudsman**