

complaint

Mr and Mrs B complain that American Express Services Europe Limited will not award them Avios points to which they believe they are entitled for spending sufficient money on their card within an offer period.

background

Mr and Mrs B applied for a third party-branded American Express card in January 2015. Extra Avios points were offered by American Express if the spend on the card exceeded a certain amount over the initial three months.

On 25 April 2015 Mr and Mrs B made an online purchase through a retailer using the card, and expected to receive the extra Avios points as a result. However, American Express said the purchase was made too late, because the retailer did not charge their American Express card until the goods were despatched several days later. It also used a second argument - that the offer had in fact expired on 21 April 2015 and not on 26 April 2015 as Mr and Mrs B believed.

Our adjudicator did not recommend that the complaint should be upheld. She concluded, in summary, that the amount involved was charged after the time limit had expired and American Express was not required to award the points.

Mr and Mrs B do not accept the adjudicator's conclusions. They say, in summary, that American Express is unreasonable in distinguishing between spending and charging dates. They point out that promotional material sent to them by American Express referred to spending (and not charging) the required sum by the time limit.

my findings

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

I will first consider the issue of the expiry date. American Express says that the card account was opened on 21 January 2015 and the offer period was three months. The expiry date was therefore 21 April 2015 and the money spent several days after expiry. I do not accept this interpretation. The promotional material sent to Mr and Mrs B clearly says that the expiry date is 26 April 2015, and this is the date on which they based their spending plans. I will use this date in deciding whether they did or did not meet the conditions of the welcome offer.

The promotional material sent to Mr and Mrs B also says that they must *spend* the required amount before the deadline to get the Avios points. Looking at the offer terms and conditions, however, American Express says that the expenditure must be spent *and charged* within the required period.

Had there not been a further complication in the chronology underlying this complaint, I would have agreed with Mr and Mrs B that they should be able to rely on the promotional material's reference only to spending the money within the time limit. Any delay in actually charging their card would then be irrelevant. However, the retailer specifically says in its order acknowledgement that acceptance of the order only takes place when the goods leave its warehouse, at which point the cost will be debited. I consider it reasonable to interpret this

as meaning that the sale is not completed until then i.e. the money is not spent until the order is despatched.

It is therefore my view that Mr and Mrs B did not spend the required amount by 26 April 2015, because the sale was not completed (and the money actually spent and charged to their account) until a few days later. I know that this is not the answer Mr and Mrs B wanted but, unfortunately, they were caught out by the retailer's terms of business. I therefore do not consider American Express to be acting unreasonably in refusing to award the points.

my final decision

My final decision is that I do not uphold this complaint against American Express Services Europe Limited.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs B to accept or reject my decision before 7 October 2015.

Malcolm Rogers
ombudsman