

complaint

Ms S complains that First Data Europe Limited unfairly closed her facility and registered adverse information about her.

background

Ms S opened a merchant services facility through First Data, so that she could accept card payments from customers of her business. First Data later wrote to Ms S, giving 30 days' notice that it was going to close her facility.

Ms S says that First Data had no good reason to close her facility, and believes that this was to punish her for complaining about a connected company. She says that First Data also 'blacklisted' her with a merchant alert service, which is stopping her from getting card-processing facilities. Ms S says that the overall result of First Data's actions is that she is unable to work and this has impacted badly on her financial situation.

First Data said that it had decided to close Ms S's facility because it had become aware that she was trading outside the terms of her agreement, and took a risk-based decision to withdraw the facility. It said that the information it registered about Ms S had been correct, but agreed to waive the closure fee as a gesture of goodwill.

As things remained unresolved, Ms S brought her complaint to this service where an adjudicator investigated it. From the evidence, the adjudicator decided that First Data had been entitled to make a commercial decision to withdraw the facility from Ms S and register information with the merchant alert service.

First Data had offered £50 for telling Ms S something wrong about the merchant alert registration, and the adjudicator recommended that as a fair settlement of the complaint.

Ms S did not agree with the adjudicator's view and made detailed further representations in support of her complaint. Some of what Ms S said related to problems with another financial services provider but her representations about First Data included, in summary:

- She has done nothing wrong, and did not mislead First Data about the nature of the services she provides as part of her overall business offering. First Data was aware of this and happy to provide the facility at the beginning.
- In any event, she does not think that the additional services – which are provided where needed by the individual client – represent any unusual risk. She also offers the mainstream service mentioned in her business title.
- The additional services were advertised for her on a family member's website. This created problems which she could not resolve as she was not in contact with the family member in question.
- She was defrauded by the family member and also by a bogus accountant whom she had trusted to deal with her tax affairs. This has created a very stressful situation for her.
- This whole matter was caused because First Data became angry about another complaint she had brought to the ombudsman service, and it did this to punish her.

- It cannot be fair for a merchant services provider to be able to put information on the merchant alert system to stop the merchant from obtaining facilities anywhere else. There should be some investigation by a third party before any registration is made.

my findings

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

Ms S believes that First Data's decision to close her account, and to register information about her with the merchant alert database, was because it wanted to punish her for bringing a different complaint – rather than because of any real concerns about her business.

However, after looking at the evidence, I do not agree. I find that the decision to close the facility was made because of risk concerns about Ms S's business. The fact that First Data was initially willing to offer the facility does not mean it was obliged to continue to do so, and I am not satisfied that Ms S made First Data fully aware of the type of services she provided beyond those mentioned in the application form.

First Data wrote to Ms S, giving her the necessary notice period. I find, overall, that First Data was entitled to end the facility and that it did so within the terms of the contract.

First Data also registered information with the merchant alert database maintained by one of the card schemes. The information that First Data lodged about Ms S was "*Agreement violation*". In all the circumstances, I do not consider that this was inaccurate information.

Unfortunately, First Data told Miss S that it would remove the information – before later explaining that it would not do so unless the information was wrong. I can understand why Ms S was disappointed to learn that the information would not be removed, and First Data has since offered £50 for any inconvenience caused by that.

I also realise that Ms S believes First Data 'blacklisted' her. But that is not what happened. Merchant services providers may look at factual information on the merchant alert database (as well as credit reference and other agencies) when assessing a merchant's application, but are free to decide for themselves whether or not to offer facilities.

I was very sorry to learn of Ms S's personal and financial difficulties. But, given my findings, I cannot uphold the complaint. I will leave it to Ms S to decide whether, on reflection, she would like to accept the £50 which First Data has offered.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms S to accept or reject my decision before 15 June 2015.

Jane Hingston
ombudsman