

### **complaint**

Mr J complains that American Express Services Europe Limited misled him into applying for a standard card, rather than the Premium Plus card he was expecting. This meant he missed out on an introductory offer of 40,000 Avios points. He would like to be awarded the points plus compensation, or receive cash in lieu.

### **our initial conclusions**

The adjudicator did not recommend that the complaint should be upheld. He considered that there was enough online information to let Mr J know which card he was applying for. He also considered that as Mr J discovered the problem within a week of making the application, he could have withdrawn from the agreement and applied for the other card. As he did not do this, the adjudicator considered he had not mitigated his loss. Mr J does not agree, saying the online information was misleading and has caused him financial loss.

### **my final decision**

To decide what is fair and reasonable in this complaint, I have considered everything that Mr J and the business have provided.

Both Mr J and American Express have provided screen shots of the original advertisement and the link to the application forms for the Premium Plus and standard cards. Having reviewed these, I consider that there was enough information available when he clicked on the link to alert him to which card it was for. On this basis, I do not agree that the marketing page and application forms were misleading.

I also note that Mr J was told by American Express within a week of making the application that he would receive the standard card, rather than the Premium Plus card he was expecting. At this point, Mr J could have withdrawn from the agreement, and submitted a fresh application for his preferred card. It is not clear why he did not do this, nor why he continued to use the standard card as though the higher offer would be available.

**But in doing so, I consider he did not mitigate his loss, and for these reasons, my final decision is that I do not uphold this complaint.**

**Under the rules of the Financial Ombudsman Service, I am required to ask Mr J either to accept or reject my decision before 9 July 2013.**

*Catherine Wolthuizen*

*ombudsman at the Financial Ombudsman Service*

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

#### **ombudsman notes**

#### **what is a final decision?**

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

#### **what happens next?**

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.