

## **complaint**

Mr D complains that MBNA Limited will not refund to him the money that he paid to a claims management company.

## **background**

Mr D made two payments to a claims management company. It realised that it would not be able to provide the services to Mr D and agreed to refund the payments that he had made but asked him to arrange for a chargeback claim to be made. MBNA made a chargeback claim but it was rejected. Mr D complained to MBNA but was not satisfied with its response so complained to this service.

The adjudicator did not recommend that this complaint should be upheld. She concluded that MBNA acted correctly in initiating a chargeback and it made a commercial decision not to pursue the claim as it did not have all the required evidence. She also concluded that a claim under section 75 of the Consumer Credit Act 1974 would not be successful because the required debtor-creditor-supplier-relationship was not present.

Mr D's representative says that although there is no debtor-creditor-supplier relationship, the two relevant companies have a strong working relationship and should therefore be considered to be associates.

## **my findings**

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

MBNA did make a chargeback claim for the two payments that had been made by Mr D. Mr D had not provided MBNA with all of the information that it had requested to support the claim and the claim was rejected because of a lack of evidence. I am not persuaded that there is enough evidence to show that MBNA acted incorrectly in dealing with the chargeback claim.

In certain circumstances, section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there has been a breach of contract or a misrepresentation by the supplier. One of those circumstances is that there must be a direct relationship between the debtor, the creditor, and the supplier. In this case the debtor is Mr D, the creditor is MBNA and the supplier is the claims management company which agreed to provide services to Mr D. However, Mr D's payment was made to a company that is not the supplier so there is no direct relationship between MBNA and the supplier. Section 184 of the same act sets out the definition of when two companies are associates. Although there may be a strong working relationship between the supplier and the company which received the payment, that is not enough to make them associates within the section 184 definition. I am not persuaded that there is any evidence to show that the two companies are associates within the section 184 definition. As such, I consider that the required debtor-creditor-supplier relationship is not present in these transactions and that a claim under section 75 cannot be successful.

I am not persuaded that MBNA has acted incorrectly in dealing with Mr D's claim for a refund of the payments that he made. I therefore do not consider that it would be fair or reasonable for me to require MBNA to refund those payments to Mr D.

**my final decision**

For these reasons, my decision is that I do not uphold Mr D's complaint.

Jarrold Hastings  
**ombudsman**