

complaint

Mr C complains that American Express Services Europe Limited cancelled all three of his credit cards accounts he held with it. As a result, he's unable to use a linked voucher that entitled him to a free flight that he calculates would have been worth around £4,500.

background

Mr C had three American Express cards. Family members were additional cardholders. One of the cards was a British Airways Premium Plus card, and one of its benefits was that, if Mr C spent more than £10,000 in a year, he was entitled to a British Airways flight. Mr C had spent enough on his British Airways Premium Plus card to earn the flight that was offered with the card.

American Express introduced a "Shop Small" scheme. Under the scheme, small businesses could sign up to participate, and customers who used their cards in participating outlets would receive rewards in the form of cashback. For every transaction of £10 or over, they'd receive a fixed payment of £5 back. So, for example, a transaction of £9.99 wouldn't receive any cashback, but one of £10 would receive £5, as would a payment of £1,000.

Mr C's card statements indicate that, while the Shop Small scheme was running, he made a number of payments of exactly £10 to participating outlets. The additional cards were used in a similar way.

American Express suspended all of Mr C's accounts and on 4 December 2018 gave notice that it would close them, which it did on 11 February 2019. The result of that was that Mr C lost all the benefits he'd accrued under the Shop Small scheme as well as the flight voucher on the British Airways Premium Plus card account.

Mr C complained to this service, and I issued a provisional decision. I've set out the main part of my findings below:

Mr C's primary concern is that American Express closed his accounts without giving any reason. The account terms said that it could close an account by giving two months' written notice, but could do so immediately for certain reasons, including if "...you breach another agreement you have with us or another of our group companies..." They also said that American Express could suspend the account for improper use. The Shop Small scheme had its own terms. They included:

American Express reserves the right to suspend or cancel the offer if any fraud or gaming by users, technical failure or any other factors outside our control impairs the integrity or proper functioning of the offer which may result in any loss or damage to American Express. We will try to give you reasonable notice of any such incident and take reasonable steps to ensure you are not unfairly impacted if the incident is due to something we have done or failed to do.

American Express reserves the right, at its sole discretion, to disqualify any individual suspected of fraud, gaming the offer or any breach of the Offer Terms.

Mr C has said that he and his family (as additional cardholders) made extensive use of the Shop Small offer over a relatively short period of time, making relatively small purchases, just large enough to qualify for the £5 cashback in each case. I've

considered his statements for the relevant period, and it appears that that may not be the full picture.

In a large number of instances, payments of £10 appear to have been made one card, followed by identical payments on other cards, including the cards of additional cardholders. So, for example, one occasion 13 payments of £10 were made to one merchant within three minutes on cards in six different names. I think it unlikely that Mr C and five family members were all present at the same time, either using their cards for identical payments or splitting the cost of a £130 transaction. And I note that Mr C contacted American Express to ask whether he could use the cards of additional cardholders on his account (and was told he could). In the circumstances, I think he was using not only his own cards but those of additional cardholders to spread payments so as to maximise the cashback payments.

The terms of the Shop Small offer don't define what American Express means by "gaming the offer". But it does appear to me to be quite clear that spreading payments across multiple cards in order to receive £65 instead of £5 (to use the example above) is exactly the type of behaviour American Express had in mind. Mr C wasn't simply increasing his spending in participating outlets – which of course the scheme was meant to encourage.

I'm satisfied therefore that American Express was well within its rights to withdraw the offer from Mr C.

I turn now to the suspension and closure of Mr C's accounts. Mr C says this was not an appropriate response to the way he was using the Shop Small scheme. I note that one of the effects of that was that he was unable to use an airline voucher, which he says he would have been able to use if his accounts had remained open.

American Express was entitled to close Mr C's accounts by giving him two months' notice, and that's what it did. This service won't generally interfere with the legitimate exercise of a financial business's commercial discretion, and I don't believe I should do so here. It was primarily for American Express to decide whether it was prepared to continue to provide Mr C with card facilities. Whilst it didn't need a specific reason to act as it did, I think it did have a reason – the way in which Mr C had sought to take advantage of the Shop Small scheme – and I think too that reason was legitimate.

For completeness, however, I would comment that American Express might have been justified in closing the accounts immediately. It could do so if Mr C breached any other agreement he had with it – including the Shop Small agreement. It could disqualify Mr C for gaming that scheme, indicating in my view that doing so would be a breach of it. For these reasons, I don't believe that, in suspending and then closing Mr C's accounts, American Express treated him unfairly.

My provisional decision was not to recommend that American Express do anything more to resolve Mr C's complaint.

my findings

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

American Express accepted my provisional decision; other than to seek clarification of one procedural matter, Mr C didn't respond. I don't therefore see any reason to change my conclusions.

my final decision

My final decision is that I don't require American Express Services Europe Limited to do anything further to resolve Mr C's complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 24 January 2020.

Michael Ingram
ombudsman