

The complaint

Mr A complains Creation Financial Services Limited has not met its obligations in regard to a transaction made on his credit card to purchase two mobile phones.

What happened

In February 2023 Mr A used his Creation credit card to purchase two more costly mobile phones on a website. He paid just under £2500 for the two phones. He went to the collection point and collected the parcel from the website. He says he opened the parcel, which he says was tampered with, to discover two new but inexpensive phones in the parcel. So he returned the inexpensive phones to the website. But the website wouldn't refund him because it says he'd not returned the expensive phones it had sent to him. Once he'd reached deadlock with the website he took his dispute to Creation.

Creation says it raised a chargeback with the website and provided Mr A with a temporary credit whilst the dispute continued. Creation then says it received a defence from the website saying it had done what it should have and that the transaction should stand. So it told Mr A it wasn't going to refund him. So as Mr A remained unhappy with this so he complained to this service.

Our Investigator considered the matter and felt that Creation had treated Mr A fairly. But Mr A didn't agree so this decision comes to me to decide.

What I've decided – and why

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

Mr A has supplied a significant amount of arguments and evidence here. And I thank him for his input. For Mr A to be successful I have to be satisfied of two things in order to make Creation pay Mr A an amount equivalent to the cost of the phones. Firstly that Creation have treated him unfairly and secondly had it treated him fairly, on balance he'd have recovered the cost of the phones through the chargeback process or section 75 of the Consumer Credit Act 1974 (CCA for short).

Both parties accept that Mr A used his Creation credit card to pay for the expensive phones and that Mr A did return the inexpensive phones he says he received to the website.

In certain circumstances, when a cardholder has a dispute about a transaction, as Mr A does here, Creation can attempt to go through the chargeback process. Chargeback isn't a right, but rather is a voluntary and informal scheme, but this service does consider it good practice to raise a chargeback, if within the time limits and that there is a reasonable prospect of success in the raising of that chargeback.

chargeback

This service considers it good practice to raise chargebacks if in time and where there is a reasonable prospect of success. Chargebacks are a process where, very briefly such disputes are raised, and the merchant can then either accept it or repudiate the chargeback by providing a defence. The bank can then counter that defence and so on and so forth until ultimately the card scheme decides on the dispute. So it is important to understand it can be the case that the bank takes the process right to its end and the card scheme decides against the cardholder and in favour of the merchant and that is out of the control of the card provider/bank.

Here Creation did raise a chargeback and the website responded with a detailed response. The website accepts it received the inexpensive phones from Mr A but points to what it says is persuasive evidence of the expensive phones being delivered to the collection point. Mr A has provided photos of the parcel he received and points to what he suggests is tampering with the parcel before he received it. Having considered these photographs carefully I'm not persuaded that the boxes have been sufficiently, if at all, tampered with to remove the expensive phones and replace them with the inexpensive phones. I consider the parcel to be of a nature that had any significant improper entry to the parcel been made to remove/insert phones there would be significant and obvious evidence of tampering to the parcel. And I don't consider Mr A's photos show that.

I've also considered the audit trail of packaging and sending that the website has provided. On balance I'm satisfied the expensive phones were in the parcel when it was delivered. So considering the website's defence to the chargeback, I don't think Creation has treated Mr A unfairly by not continuing with the chargeback process. I think on balance if it had it would have been unsuccessful in the end. So I don't think Mr A has lost out due to Creation's approach here.

Section 75

With regard to S75 of the CCA I'm satisfied Creation should have considered this. I'm satisfied the financial limits and DCS arrangement are in place in order to have a potentially successful claim. However for the reasons outlined already I'm not persuaded that such a claim should be successful. I'm satisfied the expensive phones were delivered and I'm not persuaded they were removed prior to Mr A receiving the parcel. Accordingly I don't think Creation need to do anymore here.

For completeness I'll deal with a couple of inconsistencies. Mr A says he collected the parcel from a collection hub at a shop rather than from a locker. I agree. But for the above reasons I don't think this inconsistency makes a difference.

Mr A points to the investigator saying Mr A didn't report damage to the box. He's right the Investigator did say that. I've considered the parcel and Mr A's photographs of what he says is damage/tampering. I've considered these carefully. I'm not persuaded that this evidence demonstrates on balance that the phones were removed and replaced with inexpensive phones prior to Mr A receiving the parcel as I've described. So I don't think Creation should refund Mr A the cost of the phones.

I appreciate Mr A says he's lost out. But I'm not persuaded he's lost out because of how Creation considered his dispute with the website. So his complaint is unsuccessful.

My final decision

I do not uphold this complaint against Creation Financial Services Limited. It doesn't have to do anything else in this matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 17 June 2024.

Rod Glyn-Thomas
Ombudsman