

The complaint

Mr H has a credit card account with American Express Services Europe Limited (AESEL) and is complaining because he's been unable to use accumulated airmiles to book his preferred flight options.

He's particularly concerned that American Express introduced an annual fee for the card in 2023 at the same time as advertising '*enhanced availability*' of flights. He questions whether this enhanced availability really exists and believes American Express is in breach of contract and the Unfair Trading Regulations 2008.

What happened

Mr H has had an American Express credit card account for a number of years. One of the benefits is that he accumulates airmiles with British Airways through his spending. And if his spending exceeds a certain amount, he receives a '*companion voucher*', which allows him to book flights for two passengers on preferential terms.

I understand Mr H initially paid no annual fee for the account. But a fee was introduced around 2023 that he paid in February of that year and again in February 2024. He says no new benefits were added to his account but that he agreed to pay the fee based on a brochure he received from American Express inviting customers to:

Take advantage of the enhanced availability of Reward Flight seats in Club World and Club Europe (business class).

Since the fee was introduced, Mr H has explained that he's been unable to use his companion voucher to book his preferred flights and class of travel and questions whether the enhanced availability that was advertised actually exists. He believes American Express is in breach of contract and the Unfair Trading Regulations 2008.

Our investigator didn't recommend the complaint be upheld. He noted the use of the account benefits is subject to availability and didn't feel any guarantees or assurances were given that Mr H would be able to book his preferred flights and class of travel.

Mr H didn't accept the investigator's assessment. He says the information he received about enhanced availability was misleading as evidenced by his recent experiences. He maintains American Express is in breach of contract and the Unfair Trading Regulations 2008.

The complaint has now been referred to me for review.

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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't

believe it's affected what I think is the right outcome. In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time.

I think it's also relevant to explain that the Financial Ombudsman Service is not a regulator and we don't write the rules for financial businesses or have powers to fine or punish businesses where these aren't followed. Our role is instead to consider individual disputes and reach what we believe is a fair and reasonable conclusion in the specific circumstances of each case.

American Express has provided a copy of British Airways terms and conditions relating to companion vouchers and these state under section 8 that:

Companion vouchers may only be used for bookings subject to availability and British Airways offers no guarantee that Cardmembers will be able to book a seat for themselves or for a Companion on any specific flight with British Airways or the Selected Airlines.

Based on this information, I agree with the investigator that no assurance or guarantee was given that customers would be able to book a specific flight or class of travel. Mr H doesn't appear to be disputing this. Rather, his argument is effectively that American Express falsely (he believes) advertised there would be enhanced availability and that his experience demonstrates this wasn't correct.

I've read Mr H's account of what happened carefully and it's unfortunate he wasn't able to use the companion voucher in exactly the way he wanted. While his experience is certainly anecdotal evidence, in isolation I don't believe it's sufficient for me to conclude the statement about enhanced availability was untrue or that American Express somehow misled him or other customers about the benefits of the card such that there was any breach of contract or other relevant regulations.

It's for these reasons that I'm not upholding Mr H's complaint. I realise this outcome will be disappointing for him, but I'm satisfied it's fair and reasonable in the circumstances.

My final decision

For the reasons I've explained, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 12 August 2024.

James Biles
Ombudsman