



THE COUNTER FRAUD CAMPAIGN 2019

PART 11: CHALLENGING A CHARGEBACK

Prevention of Fraud in Travel (PROFIT) and the Fraud Intelligence Network (FIN) are working with the City of London Police to reduce fraud in the travel industry. In PART 11 we look at what a chargeback is and how you can increase the chances of challenging a chargeback successfully.

PROFIT is the only official travel industry counter fraud body. We work on your behalf to carry out analysis and research, disseminate best practice and disrupt crime.

Find out how you can join the fight against crime. Contact via:
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CHARGEBACKS AND SECTION 75 PROTECTION DISTINGUISHED

- 1.0 A **chargeback** is different to consumer action under Section 75 of the Consumer Credit Act 1974. The two payment consumer protection measures have different origins, different legal basis, and different applicability.
- 1.1 A **chargeback** is a transaction reversal made to dispute a payment card transaction and secure a refund for the purchase. **Chargebacks** work by the bank withdrawing funds that were previously deposited into the merchant's (retailer's) bank account by refunding them to the consumers bank account. The merchant can dispute a **chargeback** with the bank where it can prove the **chargeback** is invalid.
- 1.2 **Chargebacks** are not enshrined in law but form part of the VISA or Mastercard scheme rules which participating banks subscribe to. **Chargebacks** can usually be made up to 120 days after purchase and apply as follows:
 - **Debit cards:** It applies to all debit card purchases for goods, although exact rules may vary between the Visa, Maestro and American Express networks.
 - **Credit cards:** **Chargeback** is particularly useful for consumers where the cost of the goods or services was under £100 and Section 75 does not apply.
- 1.3 The Fair Credit Billing Act of 1974 (US legislation), is considered the origin of **chargebacks**. The legislation considers **chargebacks** as a form of consumer protection for credit card holders, so they are naturally weighted towards the cardholder's benefit.
 - One of the driving forces behind **chargebacks** is customer satisfaction. The risk of a forced reversal of funds keeps many merchants focused on providing good customer service.
 - **Chargebacks** also deters the sale of unsatisfactory products or services. Cardholders will claim the products or services were not as described.
 - The threat of **chargebacks** helps merchants stay honest. Customers can't be expected to pay for something that was never delivered, charges that shouldn't have been made in the first place, or refunds that never got issued.
 - Criminal payment fraud against consumers flourishes today. Filing **chargebacks** on fraudulent card transactions can help innocent victims recoup their money.
- 1.4 In contrast, under **Section 75** of the Consumer Credit Act 1974 (UK legislation), where a consumer uses a credit card to purchase goods or services between £100 and £30,000 in value the credit card company is jointly liable for any breach of contract or misrepresentation by the retailer or trader. This means that the credit card company is just as responsible as the retailer or trader for the goods or service supplied, allowing the consumer to also put their claim to the credit card

company without reaching a stalemate with the retailer or trader before they contact their credit card provider.

- 1.5 There is no time limit for the consumer to make a **section 75** claim to both the retailer and credit card provider simultaneously, although they can't recover losses from both. This right is particularly useful to consumers if the retailer or trader has ceased trading or doesn't respond to their letters or phone calls. **Section 75** of the Consumer Credit Act does not apply to debit card purchases, but it does apply to foreign transactions as well as goods bought online, by telephone or mail order for delivery to the UK from overseas.

CHARGEBACKS USED FOR FRIENDLY FRAUD

- 2.0 Chargebacks have been used to commit fraud by some consumers. A study by ClearSale¹ in February 2019 suggested that as much as 86% of chargebacks are possibly fraudulent. Friendly fraud is often called chargeback fraud because consumers use the chargeback process to defraud merchants. A consumer might wrongly file a chargeback because:
 - The consumer uses a chargeback to avoid handling fee.
 - The consumer has "buyer's remorse."
 - The return process seems too cumbersome.
 - The consumer wasn't patient enough to wait for (or didn't understand) the delivery schedule.
 - The consumer didn't act promptly, and the return time limit has expired.
 - A family member made the purchase, but the cardholder doesn't want to pay the bill.
 - The cardholder forgot about or didn't recognise the transaction.
 - The cardholder wants to make some extra money.
- 2.1 Organised crime also makes use of chargebacks to commit fraud and raise funds. A fraudster may use a legitimate cardholder's information, purchased an item from a merchant and the merchant fulfils the order to the fraudster. Upon reviewing their statement, the authorized cardholder identifies a charge as illegitimate and files a chargeback, requesting a refund.

IMPLICATIONS OF CHARGEBACKS

- 3.0 Chargebacks have both short and long-term ramifications for merchants.
 - Each time a consumer files a chargeback, the merchant pays a fee (this can range from £15 to £100 per transaction). Even if the consumer later cancels the chargeback (for example, if it was filed because the item wasn't delivered but shows up a few days later), the merchant will still have to pay the administrative costs associated with the process.
 - If the consumer files a chargeback and simply keeps the merchandise, the merchant loses that revenue and any future potential for profit.
 - If monthly chargeback rates exceed a predetermined threshold, excessive fines (in the region of £10,000) will be levied against the business.
 - If chargeback rates remain above the acceptable threshold, the acquiring bank could simply terminate the merchant account. This means a frozen merchant account, with the ability to process credit card payments revoked. The merchant will be unable to accept cards so long as they have a closed merchant account.
 - If the merchant's account is terminated, that business owner will be placed on the MATCH list. This means the business has been black-listed and is unable to secure a new account with a different processor for at least five years.
 - Businesses that experience significant chargebacks could be forced to obtain high risk merchant accounts. These accounts come with steep processing fees and revenue-stealing rolling reserves.
 - Acquirers create a merchant account reserve for businesses that regularly receive chargebacks. This non-interest-bearing bank account is used to protect the bank's assets should the business sustain too many profit losses. This restricted access to revenue usually creates cash flow issues that the struggling merchant is unable to overcome.

¹ <https://blog.clear.sale/protecting-your-online-business-chargeback-fee-statistics-by-industry>

- While merchants have the right to dispute illegitimate chargebacks, crafting an effective dispute takes significant amounts of valuable resources—resources the merchant should be using to grow the business. Without professional help, these chargeback disputes rarely result in the merchant's winning.
- Winning a chargeback dispute doesn't improve the merchant's chargeback-to-transaction ratio; the merchant can regain profits but not reduce the risk of a terminated merchant account.

Because of these reasons, even a single chargeback is dangerous for a business's longevity and sustainability.

- 3.1 When a chargeback is made by a consumer the Scheme Owner (VISA or Mastercard) will expect the acquiring bank to provide enough evidence to rebut the chargeback. When evidence of sufficient strength cannot be provided by the acquiring bank the Scheme Owner (VISA or Mastercard) will issue a fine to the acquiring bank which is supposed to act as an incentive to reduce chargebacks to the acquiring bank. The acquiring bank, in turn, will then push the fine down to the merchant that either caused the chargeback or failed to provide sufficiently strong evidence to rebut it.

CHALLENGING A CHARGEBACK

- 4.0 Card issuers will investigate claims from cardholders that a transaction is not genuine, and merchants are entitled to dispute such claims but should be prepared to support this with documentary evidence. The onus of proof is on the merchant and the final decision will rest with the card issuer.

- 4.1 The merchant is never guaranteed success in challenging a chargeback, and in fact it is the experience of many merchants that they rarely succeed. By following some of the best practice we have listed you can increase your chances;

- Always respond to retrieval requests,
- Respond to 'requests for Information' Chargebacks,
- Use CV2 and AVS,
- Ensure that the evidence you provide at 1st chargeback stage is everything you can provide,
- Respond if you have refunded,
- At least one of the passengers/guests should be the named cardholder.

The merchant needs to work with the card issuer to present the best possible case to the Card Scheme owner (VISA or Mastercard).

- 4.2 The Card Scheme owner (VISA or Mastercard) will need to receive sufficient evidence from the merchant's card acquirer in order to successfully challenge the disputed chargeback. Therefore, it is vital that the merchant works closely with their card acquirer to provide enough evidence to satisfy the Card Scheme owner.

- 4.3 There are around ninety-five 'Reason Codes' used by the Card Scheme owners and unhelpfully they do not use the same codes as each other. The five main codes that appear as reasons for chargeback against UK travel are; Fraud, Duplication, Transaction Not Recognised, Non-Receipt of Services, and Non-Receipt of Refund. For these main chargeback 'Reason Codes' the following are the evidential matters merchants must be able to provide:

Fraud –

- To be able prove to the card issuer that their cardholder has participated in the transaction.
- Evidence of their customer details matching that of the genuine cardholder including:
- A copy of the passport
- Boarding Pass
- Hotel Registration

Duplication -

- Evidence of two separate transactions

Transaction Not Recognised –

- All Details of the transaction, including Name & Address of your customer, Date, Amount and Card number (truncated is acceptable), Date of Travel or Stay.
- Any other evidence including copies of letters, emails that will prove the transaction to be genuine.

Non-Receipt of Services -

- Proof that the guest has stayed or that the holiday has been taken by the cardholder.

Non-Receipt of Refund –

- Details of when the refund was processed – or details of why a refund is not due to the cardholder

4.4 Merchants wishing to manage chargebacks in-house can increase the likelihood of success by following these principles.

- **Understand the process.** From start to finish, the chargeback process is complicated. It's filled with strict deadlines, documentation requirements, and more. Before you try to dispute a chargeback, make sure that you have a thorough understanding of what you are facing.
- **Maintain accurate records.** If you do not have the appropriate records from the very beginning, you'll never win a chargeback dispute. Check with the card networks to learn more about acceptable forms of compelling evidence. Then, create a system to save the documents you may need later.
- **Check the reason code.** Each chargeback is accompanied by a chargeback reason code. This reason code helps the merchant understand why the chargeback was filed. Each card network has its own set of chargeback reason codes.
- **Start writing.** Each chargeback dispute needs to be accompanied by a chargeback rebuttal letter. Become acquainted with the best letter writing format and process.
- **Avoid second chargebacks.** Second chargebacks, or pre-arbitration chargebacks, needlessly increase costs. Get it right the first time.
- **Take action.** While chargeback time limits are quite lengthy for cardholders, merchants must act quickly.
- **Dispute with confidence.** If you've taken the necessary steps to eliminate merchant error and minimise criminal fraud, then you can dispute friendly fraud chargebacks with confidence.

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Next Week: Part 12 Other Payment Fraud