

The complaint

Mr I complains about a decision taken by EE Limited to not apply a discount to a mobile phone handset fixed sum loan agreement he took out in June 2023, a discount he believes he is entitled to.

What happened

Mr I says that since 2000 he (as an employee then as an ex-employee) was entitled to a discount on any handset and airtime agreement taken out by him with EE.

Prior to June 2021 Mr I benefited from a discount on all the handset and airtime agreements he took out with EE. This discount was initially set at 50% before being reduced over time to 40% then 30%.

In June 2021 Mr I entered into a combined handset and airtime agreement with EE. EE didn't apply the above 30% discount but applied two other discounts of 20% and 10% - totalling 30%.

In June 2023 Mr I entered into a handset agreement with no discount and an airtime agreement with a 20% discount.

Mr I complained to EE that he understood that he was entitled to a 30% discount on his handset and airtime agreement but this hadn't been applied.

EE considered Mr I's complaint but concluded Mr I was only entitled to a 20% airtime agreement discount, nothing further.

Unhappy with EE's response to his complaint Mr I complained to our service.

Mr I's complaint was considered by one of our investigators who came to the view that it shouldn't be upheld.

Mr I didn't agree and so his complaint has been passed to me for review and decision.

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 can confirm that I've come to the same outcome as the investigator and for the same reasons. There is also very little I can usefully add to what has already been said.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

I would also add that where the information I've got is incomplete, unclear, or contradictory, I've to base my decision on the balance of probabilities.

Our service was set up by Parliament under the Financial Services and Markets Act 2000 ("FSMA"). It's important to make clear that – as a public body - we don't have a general, 'at large' power to investigate any complaint. We can only investigate what FSMA and rules made under FSMA say we can. And we have no legal power to investigate complaints that are beyond our jurisdiction.

FSMA gives the Financial Conduct Authority ("FCA") the power to say what complaints we can and can't consider. The FCA has set these out in the Dispute Resolution chapter of the FCA Handbook (also known as "DISP" or "the DISP rules").

We can consider some financial complaints against EE because it falls under what is known as our compulsory jurisdiction. But that doesn't mean we can consider every complaint that is brought to us.

DISP 2.3.1 says we can consider complaints under the compulsory jurisdiction if it relates to an act or omission by a firm in carrying out certain activities. We can also look at ancillary activities in connection with them.

The provision of an airtime agreement doesn't fall under the list of regulated activities. So I don't have the power to consider Mr I's complaint about the discount of 20%, rather than 30%, that was applied to his airtime agreement.

I will now turn to Mr I's handset agreement, an agreement I can consider complaints about.

Mr I says he is entitled to a discount of 30% off this handset agreement due to being an ex-employee of EE. Now I don't doubt that Mr I has benefited from such a discount in the past and may still be enjoying such a discount on other handset plans he has with EE. But this doesn't mean EE has done anything wrong in not applying such a discount to the handset agreement subject to this complaint.

Unfortunately for Mr I he has provided no documentary evidence to show that he is entitled to a 30% discount off handset agreements with EE for life, or indeed for any period of time beyond say 2019. This, together with the fact that Mr I doesn't dispute signing the handset agreement in the full knowledge no discount had been applied and that he made an informed decision not to exercise his 14 days right of withdrawal I can't see how I can conclude that EE has done anything wrong in holding Mr I liable to those handset agreement terms now.

I appreciate Mr I will be disappointed but based on what both parties have said and submitted I'm satisfied that EE has done nothing wrong in the particular circumstances of this case.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 1 January 2024.

Peter Cook
Ombudsman

