

The complaint

Mr A complains about the quality of a new car that was supplied through a hire purchase agreement with Volkswagen Financial Services (UK) Limited (VWFS).

What happened

In November 2021, Mr A acquired a new car through a hire purchase agreement with VWFS. The cash price of the car was £32,338. Mr A made an advanced payment of £6,451, so the total amount financed on the agreement was £25,887 payable over 48 months.

Mr A said that around March 2022 he started experiencing issues with the adaptive cruise control, where it would brake without warning. Mr A said he's brought the car in to VWFS for system updates on a few occasions but said it didn't fix the problem.

VWFS confirmed that Mr A complained to them in March 2023 and requested a partial refund for the extra he paid for the adaptive cruise control.

In May 2023 Mr A brought his complaint to our service for investigation. In his complaint form, Mr A said he wanted the car to be fixed or to have a replacement car with no related issues. VWFS hadn't yet issued a final response to his complaint, however in June 2023 they told one of our investigators they believed it may be the conditions of a particular stretch of road causing the issues. They also didn't know if Mr A had booked his car in for a second opinion but was willing to consider an independent inspection if necessary.

Mr A told the investigator that he'd brought the car to a garage who told him that the car could be misreading road signs or that there could be interference from over head power lines causing the issues.

Having considered all the information on file the investigator recommended that Mr A's complaint should not be upheld. The investigator concluded that the adaptive cruise control was functioning as it should and wasn't persuaded that a fault existed.

VWFS accepted the investigator's view. Mr A didn't. He said there was no explanation as to why the car was changing its target cruise speed at certain locations. However, as the investigator's view remained unchanged Mr A asked that his complaint be referred to an ombudsman for a final 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.

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In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance

and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

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.

Mr A complains about a hire purchase agreement. Entering into consumer credit contracts like this is a regulated activity, so I'm satisfied we can consider Mr A's complaint about VWFS. VWFS is also the supplier of the goods under this agreement, and is responsible for a complaint about their quality.

The Consumer Rights Act 2015 (CRA) is relevant in this case. It says that under a contract to supply goods, there is an implied term that "*the quality of the goods is satisfactory, fit for purpose and as described*". To be considered as satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, considering any description of the goods, the price and all the other relevant circumstances.

So, it seems likely that in a case involving a car, the other relevant circumstances a court would consider might include things like the age and mileage at the time of sale and the vehicle's history.

Here, the car was acquired new, with a cash price of around £32,338. So, I think it's fair to say that a reasonable person would expect the level of quality to be higher than a second hand, more road-worn car and that it could be used – free from defects – for a considerable period of time.

From the information provided I'm persuaded there was a fault with the car. This is apparent from the commentary from the garage workshop in April 2022 which confirmed there was an electric drive error; the commentary also confirmed this was repaired. So, I'm not persuaded the fault with this persists. In addition, Mr A confirmed his complaint didn't relate to any warning notifications as those had been resolved.

However, in relation to a fault with the adaptive cruise control, I've seen no evidence that a fault with it exists. The garage commentary advised of what Mr A reported, but it doesn't specifically confirm that the system was faulty.

Mr A provided some video evidence which shows the car decreasing speed by a few miles per hour at a specific location. However, the reduction is gradual and not what I would consider to be a harsh action.

Although Mr A said the cruise speed amends itself, I haven't seen any evidence of this in the videos, however even with that being the case I don't think that alone confirms that a fault exists. For example, I'm aware that VW adaptive cruise control can automatically reduce the cars speed if necessary.

In their business file submission VWFS advised they considered the issue could be related to the condition of a specific stretch of road. Having considered all the information provided and looked into how adaptive cruise control works, I don't think VWFS comments here are unreasonable in the circumstances.

I recognise Mr A's strength of feeling that an issue exists with the adaptive cruise control that can only be diagnosed through a road test at specific locations, I also recognise Mr A

reported his concerns about this within the first six months of acquiring the car, which isn't necessarily a significant duration of Mr A's ownership of the car. However, without the evidence, for example in the form of an independent inspection report or expert diagnosis confirming the issue exists and that it was present when the car was supplied, I'm not persuaded the car wasn't of satisfactory quality when Mr A acquired it.

As I've concluded that the car was of satisfactory quality at the point it was supplied, I don't require VWFS to take any action in respect of this complaint.

My final decision

Having thought about everything above along with what is fair and reasonable in the circumstances I don't uphold Mr A's complaint about Volkswagen Financial Services (UK) Limited

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 18 January 2024.

Benjamin John
Ombudsman