

The complaint

Ms H complains that a car she took on hire purchase from FCE Bank Plc was described as new but was in fact 15 months old when she collected it.

What happened

In October 2018 Ms H took out a hire purchase agreement with FCE Bank for a new car. The dealer's invoice described the car as new and the delivery date, invoice date, date of first registration and date of the finance agreement were all the same.

Around August 2019 – that is, some ten months after Ms H acquired the car – an oil warning light came on. The dealership arranged an oil change at no cost to Ms H. It also came to light that the car had been built in 2017, around 15 months before Ms H took delivery of it. Ms H expressed concern that the car had therefore been kept in storage for many months and wasn't therefore "new" at all. She said that there had been green algae on the door sills when she collected it.

Ms H also mentioned a previous experience when moisture had been absorbed by brake fluid, causing the brakes to lock; she was concerned this might be an issue with this car. Initially the dealership said the brake fluid was not due to be changed until the 24-month service, but it agreed to get it changed in any event.

Ms H didn't think this went far enough and remained concerned that her car was not new at delivery, as she had been led to believe it was. She referred the matter to this service, where one of our investigators considered it. He concluded however that the dealership had been right to describe the car as new. That description referred to the date of first registration and was the date from which would generally be used when assessing a car's age. Ms H didn't agree and asked that an ombudsman review the case.

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.

Whilst most of Ms H's dealings were with the dealership, FCE Bank – as the creditor under the hire purchase agreement – is responsible to Ms H for ensuring the car complies with the relevant parts of the Consumer Rights Act 2015. That act requires, amongst other things, that car is as described. In this case the car was described as new. The issue I must consider therefore is whether it was fair to describe it in that way.

I accept that the car was manufactured some 15 months before it was delivered to Ms H. It seems likely that it spent at least some of that time in the open – as evidenced by Ms H's observations of algae on the door seals. I don't believe however that this means the car could not properly be described as new. I make the following observations:

- Most cars – indeed, most manufactured goods – are built or assembled some time before delivery to a customer. They may spend time being shipped, stored and on

display in a showroom or store.

- Generally, goods are described as new if they haven't been previously used, sold or leased.
- A car's age is usually taken from the date of its first registration, not the date of its completion at a factory.
- A buyer of a used car will check its age by reference to that date. There's no reason to think the value of Ms H's car will be assessed any differently.
- Service intervals and the manufacturer's warranty are measured from the date of first registration.
- It doesn't appear that there had been any change in the car's specification. That is, Ms H's car had all the same features of a car that had been built in October 2018.
- The car had not been registered to a previous owner – even the dealership.
- The invoice did not record any mileage, so it appears the mileage when Ms H took delivery of the car was zero or, at most, delivery mileage.

For these reasons, I don't believe it was inaccurate to describe the car as new.

Ms H also raised concerns – linked to the time since the car's manufacture – about the oil and brake fluid. They have been changed at no cost to her, however, so I don't need to comment further on them. Ms H has also mentioned seeing algae on the door seals when she took delivery of the car. She didn't mention this at the time, but in my view it is, at most, evidence that the car was stored or displayed in the open at some point before delivery. I have however explained why I don't believe that means its description was inaccurate.

My final decision

For these reasons my final decision is that I don't require FCE Bank Plc to do anything further to resolve Ms H's complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 14 January 2021.

Mike Ingram

Ombudsman