

## **The complaint**

Mr U complains about the quality of a new car that was supplied through a hire purchase agreement with Volkswagen Financial Services (UK) Limited trading as Audi Financial Services (AFS).

Mr U has been represented on this complaint. But to keep things simple I'll only refer to Mr U in my decision.

## **What happened**

In February 2021 Mr U acquired a new car through a hire purchase agreement with AFS. The purchase price of the car was £41,305. An advanced payment of £6,570 was made, which meant that the total amount financed on this agreement was £34,735 payable over 45 monthly repayments.

Mr U explained that about a month after acquiring his car, it started experiencing electrical faults. Mr U said he wasn't able to use the multimedia interface (MMI) screen, which included the satellite navigation (satnav) or make any phone calls which included an emergency call function. Mr U said it was distressing for him particularly when his family were in the car with him when the MMI system failed.

Mr U said he brought the car to a franchised dealership for repairs but was told they couldn't fix the problem. Mr U said he complained to AFS in May 2021 and again in September 2021. Mr U said AFS confirmed this was a common problem with some of their models that they didn't have a solution for. Mr U said VWFS offered him £807 to resolve the complaint but he declined it as they couldn't assure him the car would be fixed.

Mr U said he wanted a full refund of the monthly repayments he's made for the car and compensation for the inconvenience caused.

In September 2021 AFS provided their final response to Mr U's complaint. AFS upheld his complaint and said they offered Mr U a full rejection and refund of his deposit which Mr U declined. AFS said the dealer then offered Mr U £250 in recognition of his dissatisfaction which he also declined.

AFS confirmed that in recognition of the inconvenience caused, they'd offered Mr U a 15% reduction of his monthly repayments for a year, which amounted to £807, and a repair to the car when it became available.

Unhappy with AFS' final response, Mr U brought his complaint to our service for investigation. In December 2021 AFS advised that a software update had likely taken place on Mr U's car to address the reported issues. Mr U confirmed the update had taken place, but that the issues still persisted. AFS confirmed that a further update was expected in April 2022 which they believed would fix the problem.

Our investigator upheld Mr U's complaint and gave their initial view that a rejection with £200 compensation was fair. However, as Mr U didn't want to reject the car, and AFS advised of a potential fix through a software update, a second investigator who took over the case gave

their view that AFS' offer of a 15% refund of the monthly repayments made was fair in the circumstances.

In consideration of the offer, Mr U said he felt a 50% refund of his monthly repayments would be fair compensation in the circumstances. Unhappy with our investigator's view, Mr U asked that his complaint be referred to an ombudsman for a final decision.

In July 2022 Mr U confirmed in an email to our investigator that following a further software update that took place in April 2022, he hasn't experienced any further issues with the MMI system.

My initial thoughts on Mr U's complaint has been shared with each party as my proposed resolution differed to what our investigator had recommended. Each party was invited to share their comments. AFS didn't respond. However, Mr U explained that he felt the 15% offer was low because he believed more than 50% of the car's driving activity was affected by the MMI system that wasn't working properly. He also reiterated that he decided against driving longer distances, because the driving experience was impaired.

### **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.

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.

The agreement in this case is a regulated hire purchase agreement. As such, this service is able to consider complaints relating to it. AFS 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.

My starting point is that AFS supplied Mr U with a brand-new car which was priced in excess of £40,000. With this in mind, I think it's fair to say that a reasonable person would expect there to be no issues with the car's quality and that it could be used free from any issues for a considerable period of time.

From the information provided I'm satisfied there was a fault with the car's MMI system. This is apparent from Mr U's description of events, along with the vehicle history report provided by AFS, detailing the issues reported by Mr U and the attempted repairs carried out by the garage workshop.

Mr U said he experienced the issues with the MMI system around a month after being supplied the car. AFS confirmed in their final response there was an outstanding software

update required on Mr U's car. AFS have also upheld Mr U's complaint and offered to compensate him for the issues he's experienced, so I don't think either party disputes that the car was faulty or that it wasn't of satisfactory quality when it was supplied to Mr U.

Having considered the car was not of satisfactory quality when it was supplied to Mr U, I've considered whether AFS' offer was fair and reasonable in the circumstances.

Mr U said he didn't want a rejection of the car because he wanted to continue to have use of it. Having initially wanted a full refund of his monthly repayments along with a repair of the issues, after further consideration Mr U said he felt a 50% refund of the monthly repayments he'd already made would be a fair outcome, in recognition of the inconvenience caused to him and the impaired usage he's had of the car.

Having considered everything, I'm satisfied with the offer made by AFS to refund 15% of the monthly repayments made by Mr U for the faulty MMI system. There's no perfect science to calculating the percentage refund in this situation, however, in the circumstances I think the 15% refund is a fair recognition for the failure of the MMI system. When Mr U reported the electrical issues, he advised that the car was still driveable. And I've seen no evidence to say the mechanical performance of the car was affected by the MMI system failure.

However, I also think AFS should pay Mr U £200 compensation in recognition of the inconvenience this situation has caused him. Considering this was a brand-new car that Mr U acquired and for a price that wasn't insignificant, I recognise this would have been a disappointing situation for Mr U to be in. I'm persuaded it's likely Mr U's intended experience would have been considerably impacted. Mr U said he felt terrified when the MMI system failed, particularly when his family were in the car with him and that it made him not want to drive the car as much as he'd intended.

Mr U has confirmed that since the most recent software update in April 2022, he's experienced no issues with the MMI system. So, to resolve this complaint, I'll be instructing AFS to refund to Mr U 15% of the monthly repayments he made up to April 2022, when the MMI system had been repaired. I'll also be instructing AFS to pay Mr U £200 in compensation for the distress and inconvenience caused to him.

### **My final decision**

Having thought about everything above along with what is fair and reasonable in the circumstances I uphold this complaint and instruct Volkswagen Financial Services (UK) Limited trading as Audi Financial Services to:

- Refund to Mr U 15% of all monthly repayments made by him from inception of the agreement up to April 2022
- Pay 8% yearly simple interest on the above refund calculated from the date of payment to the date of settlement.
- Pay Mr U £200 in compensation for the distress and inconvenience caused

If Volkswagen Financial Services (UK) Limited trading as Audi Financial Services considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Mr U how much it's taken off. It should also give Mr U a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr U to accept or

reject my decision before 22 August 2022.

Benjamin John  
**Ombudsman**