

The complaint

Mrs C complains that an iPad acquired with finance from Virgin Media Mobile Finance Limited wasn't of satisfactory quality.

What happened

In July 2020 Mrs C was supplied with an iPad and entered into a loan agreement with Virgin.

In June 2022 Mrs C experienced issues with the iPad getting stuck in recovery mode.

Mrs C took the iPad to the genius bar but attempts to restore the iPad failed. The genius bar advised Mrs C that because the iPad was out of warranty the repair would be chargeable.

Mrs C complained. Her complaint wasn't upheld on the grounds that the warranty had expired. She was offered £60 as a gesture of goodwill.

Mrs C wasn't happy with the response and complained to this service.

Our investigator upheld the complaint. He thought the iPad wasn't sufficiently durable and aid Virgin should arrange for repairs at no cost to Mrs C.

Virgin didn't agree. It said there was no evidence of a fault with the iPad and that the issue could've been caused by accidental damage or liquid or third party software.

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.

Mrs C's complaint is about the quality of an iPad acquired with a fixed sum loan agreement. This is a regulated agreement which this service has power to consider a complaint about.

Section 75 of the Consumer Credit Act 1974 is relevant here. It protects customers who buy goods and services on credit. It says that in certain circumstances, the finance provider is legally responsible for any breach of contract or misrepresentation by the supplier. In practice, this means that if Mrs C has a claim against the supplier, she also has a like claim against the finance provider.

The Consumer Rights Act 2015 is also relevant here. It says that goods supplied must be of satisfactory quality, defined as meeting the standard that a reasonable person would consider satisfactory taking into account the price, description of the goods and other relevant factors. Satisfactory quality also refers to the durability of the goods.

In the context of Mrs C's complaint, I need to determine whether there's been a breach of contract on the grounds that the goods supplied were of unsatisfactory quality.

Mrs C was supplied with a brand new iPad, so I'd expect it to be free from faults for a reasonable period of time and also to be sufficiently durable.

The CRA says that goods must conform to the contract within the first 6 months. So, if the goods are found to be faulty within the first 6 months, it's assumed that the fault was present when the goods were supplied. Outside of the 6 months, it's for Mrs C to show that the goods weren't of satisfactory quality.

The iPad was supplied to Mrs C in June 2020 and the fault was reported 23 months later. So I think the onus is on Mrs C to show that the iPad wasn't of satisfactory quality, or wasn't sufficiently durable.

The iPad was inspected at the genius bar. The report says that the iPad was stuck in recovery mode. It also says that the iPad was in good condition and that the ports were free from damage.

Overall, the report persuades me that the fault with Mrs C's iPad wasn't likely to have been caused by accidental damage, liquid or third party software.

I think a reasonable person would expect a brand new iPad to work beyond 23 months. Based on what I've seen here, I don't think the iPad was sufficiently durable. This means it wasn't of satisfactory quality and the finance provider must put things right.

Putting things right

Under the CRA the finance provider is allowed one opportunity to repair the iPad. Virgin should arrange for repairs to take place at no cost to Mrs C.

Mrs C has been caused inconvenience as a result of being supplied with an iPad which wasn't of satisfactory quality. It's fair to ask Virgin to pay compensation for the distress and inconvenience caused.

My final decision

My final decision is that I uphold the complaint. Virgin Media Mobile Finance Limited must:

Arrange for the iPad to be repaired at no cost to Mrs C (or reimburse Mrs C for the cost of repairs if she arranges the repairs)

Pay compensation of £60 for distress and inconvenience

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 9 January 2023.

Emma Davy
Ombudsman