

The complaint

Mrs H complains that a car acquired with finance from BMW Financial Services (GB) Limited ("BMWFS") wasn't of satisfactory quality.

What happened

In June 2022 Mrs H was supplied with a brand new car and entered into a hire purchase agreement with BMWFS.

Soon after getting the car, Mrs H experienced an issue with her mobile phone disconnecting from the car's infotainment system. The fault was intermittent. On some occasions the phone would disconnect and reconnect for a short time. On other occasions it would not connect at all. This left Mrs H unable to rely on the sat nav system or listen to music whilst driving.

Mrs H reported the fault to the supplying dealer and booked the car in for repair in November 2022. The supplying dealer advised Mrs H that the car needed a software update. This was carried out.

Mrs H continued to experience the same issues. She took the car back to the supplying dealer in February 2023. The dealer carried out a further software update. Mrs H's husband collected the car but found that the issue hadn't been resolved because his phone wouldn't connect. The car was re-booked for repairs. When Mrs H collected the car, the supplying dealer told her that there was nothing wrong with the car's infotainment system and that the issue was with her phone not being compatible.

Mrs H complained to BMWFS and asked to reject the car. BMWFS issued a final response in which it said it wasn't upholding the complaint because the fault had occurred more than 6 months after the point of supply.

Mrs H remained unhappy and brought her complaint to this service.

Our investigator upheld the complaint. They said they were satisfied that there was a connectivity issue within the first 6 months of supply. The investigator said that the evidence suggested that the issue was with the infotainment unit of the car and not with Mrs H's phone. They said that the supplying dealer had already had an opportunity to repair the fault and that a rejection was justifiable.

BMWFS didn't agree. It said it had spoken to the supplying dealer who had confirmed that there was no fault with the car and that the issue was a compatibility issue with Mrs H's phone.

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.

The Consumer Rights Act 2015 is relevant to this complaint. This says that goods must be of satisfactory quality when supplied. Cars are of satisfactory quality if they are of a standard

that a reasonable person would regard as acceptable, taking into account factors such as the age and mileage of the car and the price paid. The legislation says that the quality of goods includes their general state and condition as well as things like fitness for purpose, appearance and finish, freedom from minor defects, safety and durability.

The car supplied to Mrs H was brand new. So its reasonable to expect that it would be of a very high standard and that it would be fault free for a reasonable period of time.

Mrs H experienced issues with connecting to the infotainment system within the first few weeks of getting the car. The car has an infotainment system which uses Android Auto. Mrs H says that her phone initially worked as it should with the system but after a few weeks the phone would disconnect.

Mrs H has told this service that the car was returned to the supplying dealer in November 2022, February 2023, March 2023 and April 2023 for the issue to be fixed and that on the first three occasions the supplying dealer carried out a software update to the car. I haven't seen job cards for all of these visits, but I've seen job cards dated 14 March and 19 April and the earlier visits haven't been disputed by either the supplying dealer or BMWFS.

Based on what I've seen, I'm satisfied that there was a connectivity issue which arose within the first 6 months of supply. The dispute here is whether the issue is due to a fault with the car or a fault with Mrs H's phone.

I can see that on three of the four visits to the supplying dealer, the dealer attempted repairs by carrying out a software update to the car. This suggest that the supplying dealer considered the issue to be with the car and not with Mrs H's phone.

I've also taken into account Mrs H's testimony that her phone connected without issue to the courtesy vehicle provided by the supplying dealer. This again suggests that there was no issue with Mrs H's phone. Mrs H has also provided testimony that her husband experienced connectivity issues in the car with his phone, which again suggest that the issue was with the cars infotainment system.

There's no evidence to suggest that there is a fault with Mrs H's phone. The fact that Mrs H's phone worked in the courtesy vehicle is persuasive evidence that it was the infotainment system in her car that had a fault. Further, if the supplying dealer didn't believe that the fault was with the infotainment system, I can't see why it attempted repairs including software updates on three occasions.

On balance, I'm persuaded that there is a fault with the cars infotainment system. I'm satisfied that the fault was present or developing at the point of supply. The supplying dealer has had a reasonable opportunity to repair the fault, but the repair hasn't been successful. Mrs H should be allowed to reject the car.

Putting things right

Mrs H hasn't been able to use all the features of the car because of the connectivity issues. This hasn't stopped her from driving the car, but it has caused her a loss of enjoyment and impaired use. Because of this, I think Mrs H should receive a refund of 10% of all monthly rentals she'd paid from July 2022 to the date of settlement.

Its clear that Mrs H has been caused some inconvenience as a result of being supplied with a car which wasn't of satisfactory quality. She's had to return the car to the supplying dealer on multiple occasions. She's also been caused distress when the sat nav system stopped working whilst she was driving.

My final decision

My final decision is that I uphold the complaint. BMW Financial Services (GB) Limited must:

End the agreement with nothing further to pay

Arrange for the car to be collected at no cost to Mrs H

Refund the deposit/part exchange contribution

Refund 10% of rentals paid since July 2022

Pay 8% simple interest per year on all amount refunded calculated from the date of payment to the date of settlement

Pay £200 compensation for distress and inconvenience

Remove any adverse information relating to the agreement from Mrs H's credit file

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 7 December 2023.

Emma Davy
Ombudsman