

The complaint

Mrs A complains that Creation Consumer Finance Ltd won't refund the full value of a purchase she made which was financed by a revolving credit account facility.

What happened

In November 2022, Mrs A bought a television and soundbar from a retailer. The total cash price was £1,943. Mrs A paid £443 directly to the retailer and the remaining £1,500 was financed by a revolving credit facility provided by Creation.

Mrs A discovered the soundbar was faulty. She approached the retailer for a refund, but it initially said that she was not entitled to one as she was outside of the 30 day returns window. It directed her to the manufacturer to see if it could assist with a repair. Mrs A says that she was passed between the manufacturer and the retailer with no resolution.

The retailer eventually agreed that the soundbar was faulty, however it said that it was unable to provide a like for like replacement as it couldn't source one. It said that Mrs A could either receive a refund of what she paid, which it said was £224 or she could exchange it for any soundbar of her choice but that she would need to pay any difference in price. The retailer said if Mrs A wanted to exchange the soundbar it would be willing to offer her an additional 10% on top of the £224, plus a £50 voucher and free installation and delivery.

Mrs A said that the original cost of the soundbar was £449 so it should be this price that should be matched or refunded. The retailer said that while the original price had been £449, Mrs A had received a discount of £225. It said that as she had only paid £224, this would be all she was entitled to.

Mrs A then approached Creation in May 2023 to ask for a refund under section 75 of the Consumer Credit Act 1974 ("section 75"). Creation responded to the claim and complaint around six weeks later to say that as the retailer had already accepted there had been a breach of contract and offered a suitable remedy, it didn't think it needed to do anything else to put things right.

Our investigator recommended the complaint be upheld. She didn't think the retailer's offer was fair and as Mrs A hadn't accepted it, she thought Creation ought to have put things right. She said that while there was a discount of £225 applied to the purchase, it didn't appear to have been only applied to the soundbar. She was persuaded the discount was for the whole purchase price of the television and soundbar together. Therefore, she considered that the amount Mrs A had paid towards the soundbar was actually £402 (taking into account a proportionate discount). She considered this is what Creation should have refunded, along with interest for the time Mrs A had been deprived of those funds.

Creation agreed with that outcome in part. It said it was prepared to refund the £402, but that it would only pay interest on £224 as it maintained this was the cash value of the soundbar.

Mrs A didn't agree with the outcome. She said that the cash price of the soundbar was £674.

She said that the price on the receipt showing £449 was after the discount of £225. She said that the figures on the receipt and her finance agreement did not otherwise add up correctly.

As there was no agreement, the complaint has been passed to me 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.

The general effect of section 75 is that if Mrs A has a claim for breach of contract or misrepresentation against the retailer that sold her the soundbar, she can bring a like claim against Creation as the provider of credit for that purchase. There are other criteria that also need to be met for a claim to be made, however, I'm satisfied those criteria are satisfied here.

There is no dispute that there has been a breach of contract by the retailer as all parties agree that the soundbar is faulty. What is left in dispute is what a fair remedy is to put things right.

The Consumer Rights Act 2015 ("CRA") is relevant here as it implies certain terms into contracts for the purchase of goods, such as that the goods need to be of satisfactory quality. Where they are not, the CRA sets out what remedies are available to Mrs A.

All parties accept that the soundbar wasn't of satisfactory quality. As Mrs A notified the retailer of faults more than 30 days after purchase the CRA says that she was not entitled to immediately reject the goods and receive a refund. The retailer would be given one opportunity to either repair or replace the goods first.

I understand repair attempts were made which were unsuccessful and the retailer confirmed that a replacement was not possible as the model of soundbar was no longer available for purchase. In these circumstances, Mrs A was then entitled to reject the goods and receive a full refund of what she paid (with a deduction for any reasonable use she had received of the goods) or an appropriate price reduction.

Mrs A hasn't had any use of the goods so I don't consider any price reduction is appropriate here and she should therefore be entitled to a full refund of what she paid. Mrs A initially said to the retailer that she believed that the price of the soundbar was £449. She has later said to our investigator that she believes it to have been £674. Having considered the available evidence, I'm satisfied that the price was £449 and what Mrs A actually paid for the soundbar was £401.86.

I'm satisfied that the receipt Mrs A has provided sets out the original cash price of the television and soundbar. The television is listed as £1,699 and the soundbar as £449. This makes a total of £2,148. There is also a delivery charge of £20 and then a separate entry for a global discount of £225. The total amount due figure at the bottom of the receipt is listed as £1,943.

The figure of £1,943 is what Mrs A paid. She paid £443 using her bank card and the remaining £1,500 was financed by Creation. The total of the television, soundbar and delivery was £2,148. When you deduct £225 from this figure it gives £1,943 – the amount Mrs A paid. This demonstrates that the original instore price of the soundbar must have been £449 – not the £674 figure Mrs A now says it was. I appreciate Mrs A disagrees with this, but I've seen nothing to persuade me the soundbar cost £674 originally.

The reason I consider that a fair refund ought to be £401.86, rather than the original cost of £449 is that the discount of £225 appears to have been a global 10.5% discount of the total cost of the television and soundbar together (there was no discount applied to the delivery). I've not seen anything to suggest it was intended to discount just one of those items in isolation. A 10.5% discount on £449 is £401.86. Therefore, this is the true amount that Mrs A paid towards the soundbar.

For these reasons, I think it would be fair and reasonable for Creation to refund £401.86 to Mrs A. As Mrs A has paid for goods she hasn't used and has been deprived of the use of that money in the interim, I consider it fair and reasonable for Creation to also pay an additional 8% simple interest per year on that refund from the date Mrs A paid it, to the date of settlement.

For the avoidance of doubt, the interest should be paid on the total amount of £401.86 as I'm satisfied that is what Mrs A paid for the soundbar. In calculating the date on which Mrs A paid for the soundbar, Creation should assume the final £401.86 of the outstanding balance on the finance accounted for the soundbar. This is because Mrs A had not paid Creation or the retailer more than she should have until the point at which the total cost of the television and delivery was fully repaid. In other words, she was not out of pocket until she began to repay the final £401.86 on the finance.

Lastly, Mrs A has expressed how unhappy she is with the way the retailer, manufacturer and Creation have dealt with her request for a refund. My role is to look at Creation's actions only. Creation's potential liability under section 75 in these circumstances wouldn't extend to any customer service or complaints handling failings by the retailer or manufacturer. Having thought about Creation's actions, I've not seen anything to persuade me that its handling of the claim was unreasonable or inappropriate.

I've seen that it investigated the claim promptly and responded to Mrs A's section 75 claim with an outcome within a reasonable timeframe. While Mrs A was unhappy with the outcome she was given, and notwithstanding that in my view it should have offered a larger refund, that is not reasonable grounds for me to award compensation in this case.

My final decision

For the reasons given above, I uphold this complaint and direct Creation Consumer Finance Ltd to:

- Refund £401.86. If Mrs A has already received a partial refund from the retailer, then Creation can deduct that from any refund it makes to Mrs A.
- Pay 8% simple interest per year on the above refund from the date Mrs A paid this amount to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 4 September 2024.

Tero Hiltunen
Ombudsman