

The complaint

Mr S has complained that three fixed sum loan agreements given to him by Telefonica UK Limited ("Telefonica"), trading as O2, were unaffordable.

What happened

In summary, Mr S bought a phone on three separate occasions:

- The first agreement was in November 2022 and required £248.60 to be paid back over 36 months with monthly repayments of £6.91.
- The second agreement was in December 2022 and require £529 to be paid back over 36 months with monthly repayments of £14.70.
- The third agreement was in March 2023 and required £819 to be paid back over 36 months with monthly repayments of £22.75.

There was no interest on each agreement.

Mr S fell behind with the payments on all three of the agreements and each of them went into default.

Mr S complained to Telefonica in August 2023 about each of the agreements. He says the lending ought not to have been granted given his financial situation.

Telefonica explained to us that for each agreement Mr S passed its relevant credit and affordability checks.

Our investigator looked into things and thought that Telefonica had completed reasonable and proportionate checks before lending.

As Mr S didn't agree, the complaint has been passed to me to make a 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.

We've explained how we consider complaints about unaffordable lending on our website. I've thought about this approach when deciding Mr S's complaint.

Telefonica was required to make sure for each lending decision that Mr S could repay the borrowing over its full term without it having a significant adverse effect on his financial situation.

What is considered proportionate will depend on a number of factors such as (but not limited to): the type, amount and duration of the credit; the frequency and size of the repayments;

the total amount payable and total charge for credit; the interest rate (if applicable) and any other costs which may be payable; and any other potential adverse consequences for the customer arising from a failure to make payment.

Telefonica told us that it had carried out checks with a credit reference agency for each agreement. Unfortunately, it hasn't been able to provide the specific information it relied on when carrying out each search as it doesn't retain copies. That's not especially unusual in these types of cases. So I've focused on the evidence and information that *is* available.

Given the level of repayments for each of the agreements, I'd expect the checks to reflect the fact that the lending was a moderate sum over a term that appeared to be manageable. So my starting point is to treat each of these agreements as being relatively low risk. I would add here that, having noted that the agreements were taken out over a period of around five months isn't something I'd necessarily regard as an issue of concern for Telefonica. It's not uncommon for customers to take out finance for more than one mobile phone over a relatively short period to suit their individual circumstances.

Mr S has referred to his low credit rating. That's certainly one indicator of financial circumstances, and is helpful to look at alongside a range of other factors. So it doesn't necessarily always follow that a low credit rating will automatically mean that credit is likely to be turned down. I see also that our investigator asked Mr S to provide a copy of his credit report. That might have shed some more light on Mr S's financial history, potentially including further detail about the financial difficulties Mr S told us about, including having previously had county court judgments. But not having seen it, I can't speculate further on what it might have shown.

Taking all of this into account, I agree with our investigator that, based on what we've seen, Telefonica carried out proportionate checks for each of the three agreements.

However, just because I think Telefonica carried out proportionate checks for each agreement, it doesn't automatically mean it made a fair lending decision. That will depend on what the available evidence and information for each check showed. I don't have all the information available from the time of each agreement so I can't know exactly what Telefonica relied on.

In addition to the credit check, when completing each application, Mr S confirmed his work status and gave an indication of his income. He was also required to confirm that his current financial circumstances meant each agreement was affordable and that he'd let Telefonica know if his circumstances changed in the future. It was reasonable for Telefonica to place reliance on those confirmations and consider them alongside what it already knew.

It follows that I am satisfied that I don't have sufficient reason to say that Telefonica made lending decisions for these three agreements that were unfair. So I won't be upholding this complaint.

Mr S has also told us about his health situation and how his debt issues have had an impact on that. I am sorry to hear of that but I'm afraid it doesn't affect my finding. I know that Mr S will be disappointed with my finding. But we are an evidence-based service and I am only able to make my findings based on the evidence and information that's been made available to me. I would like to assure Mr S that I have carefully considered everything he's said, including his response to our investigator's view.

My final decision

My final decision is that I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 9 July 2024.

Michael Goldberg

Ombudsman