

The complaint

Mr G's complaint relates to problems he had with a car supplied to him by Volkswagen Financial Services (UK) Limited trading as Audi Financial Services UK Ltd under a hire-purchase agreement.

What happened

Mr G entered into a hire-purchase agreement with Audi Financial Services for the supply of an electric car. Several months after taking delivery Mr G raised concerns over a number of matters he said were impairing his use of the car. These included, but weren't limited to, issues with the car's software, the multimedia and entertainment systems, and driver aids. Mr G also said that some of the car's other features weren't available, such as the timed charging facility, contrary to what he'd understood when he acquired the car and based on the manual that came with it.

In response, Audi Financial Services said that some of the features weren't relevant to the car supplied to Mr G, and that other aspects would need to be resolved with software updates – some of which weren't yet ready for release. It noted that the lane assist aid that Mr G had referenced could be adjusted for sensitivity. Audi Financial Services said other multimedia and entertainment system issues Mr G had highlighted were characteristics or features that weren't faults needing a fix.

Audi Financial Services disagreed with Mr G's assertion that the car was mis-sold to him. It noted Mr G hadn't queried any of the sales information until around nine months after he got the car. It also said the car had been driveable throughout. However, in light of the impairment arising from the time taken to release software updates, Audi Financial Services offered to reimburse 10% of his monthly rental payments – later increased to 20%.

Our investigator felt that, while there were some issues that had affected Mr G's use of the vehicle, they weren't sufficient to amount to a lack of satisfactory quality under the Consumer Rights Act 2015 ("CRA"). The investigator said software updates were a quite common occurrence, noting that Mr G had in any event been reluctant to agree to updates via the dealership, or to give it the opportunity to investigate further. Overall, our investigator considered Audi Financial Services had made a reasonable proposal to resolve Mr G's complaint.

Mr G didn't accept the investigator's conclusions. He felt he'd done enough to demonstrate that the car hadn't met the CRA requirements, and to show that this entitled him to reject the vehicle. As I understand it, Mr G has since paid off the remaining finance balance and has sold the car.

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.

Having done so, I appreciate I'm going to disappoint Mr G again when I say that I'm not going to require Audi Financial Services to compensate him beyond the amounts it has already paid. I don't doubt his sincerity in bringing the complaint, and I acknowledge that there were clearly issues with the car that caused him to be unhappy with it, such as the original software version installed in the car when supplied. However, I'm not persuaded that it necessarily follows that these issues mean Audi Financial Services was obliged to agree to rejection of the vehicle.

As the supplier of the car, Audi Financial Services has certain obligations that arise from the provisions in the CRA. As our investigator set out, one of those obligations – and the key one in the context of this complaint – is that the effect of the CRA is to incorporate into the hire-purchase agreement a term that the car will be of satisfactory quality.

According to the CRA explanatory notes, *“the test of whether or not the quality of the goods is satisfactory is determined by what a reasonable person would consider satisfactory for the goods in question, taking into consideration all relevant circumstances including any description, the price and any public statements by the trader or producer or their representatives, such as statements made in advertisements or on the labels of goods.”*

Assessment of quality is an objective test. It isn't enough that a customer is dissatisfied with a car. Under the CRA, the quality of goods includes their state and condition and includes aspects such as appearance and finish, freedom from minor defects, safety and durability.

Here, it's not in dispute that Mr G identified some issues with the car several months after taking delivery. The nature of those issues, which Mr G has described in great detail, in my opinion would likely fall some way short of reaching the CRA threshold for the car to be deemed not of satisfactory quality. I also note that Mr G declined to take the car to the dealership for fault diagnosis or to update the software when asked to do so. It would be somewhat inequitable for me to conclude that the car was faulty based solely on Mr G's opinion that it was, or that his actions in refusing to get the software update were entirely reasonable.

Because Mr G declined to have the issues diagnosed, and has since sold the car, it is now not possible for me to ascertain with any degree of certainty whether a fault diagnosis would have identified defects that might have entitled him to have rectified or, failing this, to exercise a right of rejection.

Further, Mr G hasn't provided me with sufficiently persuasive evidence that he was misled by the dealership when discussing the car's features. He hasn't, for example, provided advertisements or similar sales information that might demonstrate that the car was not as described. I don't consider the vehicle handbook is sufficient evidence that features are missing from the car he contracted for. The absence of a statement in the handbook to the effect that not every model comes with all of the features described therein doesn't create a contractual obligation or reasonable expectation that such features are included with the car.

Taking all of this into account, I'm satisfied that while Mr G's day-to-day enjoyment of the car has fallen short of his expectations, Audi Financial Services has dealt fairly with the situation by making the proposal it has.

For clarity, that proposal is to reimburse 20% of the rental payments Mr G paid from inception of the hire-purchase agreement up to the point Audi Financial Services made that offer in November 2023. I consider the offer to be adequate as a reflection of the impairment to Mr G's use of the car.

My final decision

My final decision is that to settle this complaint, Volkswagen Financial Services (UK) Limited trading as Audi Financial Services UK Ltd must take the following steps within 28 days of receiving his acceptance of this decision:

- pay Mr G an amount equivalent to a 20% refund of the monthly rental payments he made under the hire-purchase agreement between March 2022 and November 2023

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 24 July 2024.

Niall Taylor
Ombudsman