

## **The complaint**

Mrs C is unhappy that a car supplied to her under a hire purchase agreement with Mercedes-Benz Financial Services UK Limited, trading as Mercedes-Benz Finance ('MBFS'), was of an unsatisfactory quality.

## **What happened**

In October 2023, Mrs C was supplied with a new car through a hire purchase agreement with MBFS. She paid a £2,000 deposit and the agreement was for £32,130 over 48 months, with 48 monthly payments of £419.80 and an optional final payment of £17,050.

Mrs C wasn't happy with the car, as the rear camera made a noise when it was calibrating. While the camera was replaced this didn't make any difference, and the supplying dealership confirmed that the noise was a characteristic of the rear camera, and the car was performing as it should.

Unhappy with this, Mrs C complained to MBFS, explaining that she'd never had this issue with other new cars that she'd owned, that her enjoyment of having this car had been ruined, and that the noise was causing her stress and anxiety. She also felt that the car had been mis-sold to her, as she hadn't been advised there would be a noise from the camera when she ordered the car.

MBFS explained how the camera calibration was an ongoing process carried out by the car, to ensure the accuracy of the camera. They also explained that, if this calibration wasn't carried out it would result in a warning message and the need for manual intervention. So, they didn't think there was anything wrong with the car, and the noise from the camera was a characteristic of the calibration process. Because of this, MBFS didn't think they needed to do anything more. However, they did confirm Mrs C's options if she wanted to return the car.

Mrs C wasn't happy with MBFS's response, and she brought her complaint to the Financial Ombudsman Service for investigation.

Our investigator said that, while the camera made a noise during the calibration process, this didn't mean there was a fault with the car, and there was no evidence to show that the camera itself was faulty. Because of this, Mrs C didn't have the right to reject the car.

The investigator also didn't think that the car had been mis-sold to Mrs C, and they didn't think it was reasonable to expect the dealership to point out each and every intricate design feature of the car. So, they didn't think MBFS needed to do anything more.

Mrs C didn't agree with the investigator's opinion. She said that the noise with the camera was unacceptable, and that she pointed this out to the dealership within the first 30-days. As such she felt that she had the right to reject the car. Mrs C also said that she was not told that the camera would be noisy when she ordered the car, and that she didn't have the option to test drive the make and model of car she ordered as one wasn't available. But she was told that this car would be better than the car she had at the time, due to advances in technology.

Mrs C didn't think the camera design was fit for purpose, and this meant that she was unable to sell the car privately as anyone test driving the car would hear the camera noise. She also said that other customers had been allowed by dealerships to reject their cars within 30-days due to this issue, so it was only fair that she should be allowed to do this.

Because Mrs C didn't agree with the investigator's opinion, this matter has been passed to me to decide.

### **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've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mrs C was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, MBFS are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless MBFS can show otherwise. So, if I thought the car was faulty when Mrs C took possession of it, or that the car wasn't sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask MBFS to put this right.

Before I explain why I've reached my decision, I think it's extremely important for me to set out exactly what I've been able to consider here. While I recognise Mrs C has made reference to the experiences of other people who have bought the same make and model of car, a crucial part of our service and the way we consider complaints is that we consider each complaint on its own merits and its own individual circumstances. So, my decision won't be impacted in any way by the experiences of other people with different cars, no matter how similar Mrs C feels the situation is.

Based on the evidence I've seen, it's not disputed that the noise from the camera is a characteristic of the car, and not as a result of a fault with the camera or car itself. And, while I appreciate the strength of feeling Mrs C has about the camera noise, and how this has affected her enjoyment of the car, this doesn't override the CRA.

Section 22 of the CRA allows Mrs C the 30-day short-term right to reject the car, but this right of rejection is only available if there is a fault with the car that makes it of an

unsatisfactory quality at the point of supply. And, in this case, there isn't – while Mrs C doesn't find the noise satisfactory, a characteristic of the car doesn't make the car faulty. So, Mrs C doesn't have the right of rejection under section 22 of the CRA.

Sections 23 and 24 of the CRA also give Mrs C the right to rejection outside of the 30-day short-term right to reject period. These allow for rejection where a fault, which made the car of an unsatisfactory quality at the point of supply, hasn't been fixed after a single chance of repair has been attempted, or if there is an unreasonable delay in attempting a repair. While the camera was replaced, as there was no fault with the camera (or the car), as explained above, Mrs C doesn't have the right of rejection under sections 23 and/or 24 of the CRA.

Finally, as may have been the case with other people who purchased the same make and model of car, the dealership may have accepted rejection as a gesture of goodwill. But they didn't offer this to Mrs C, and there is no reason under the CRA that says they should have.

I've also considered whether the car was mis-sold to Mrs C. For a mis-sale to be present there must be a false statement of fact AND that false statement of fact must have, in this instance, induced Mrs C to have chosen this particular make and model of car.

I've considered Mrs C's testimony about what happened when she ordered the car. While it's unfortunate that the particular make and model she ordered wasn't available to be test driven, the lack of a test drive itself doesn't mean the car was mis-sold. From what I've seen, Mrs C was advised there was a reversing camera fitted on the car, and this was the case. I wouldn't expect the dealership to have explained that, for safety purposes, the camera dynamically calibrates and makes a noise when doing so, just as I wouldn't expect them to, for example, explain that the car may make a noise when changing gear, or that road noise may be heard while driving – these are things a reasonable person may expect.

As such, and while I appreciate this will come as a disappointment to Mrs C, I don't consider her not being told that the camera will make a noise while calibrating was a false statement of fact. As such, without any false statement of fact, the car hasn't been mis-sold. So, I won't be asking MBFS to allow Mrs C the right to reject the car, nor will I be asking them to take any further action.

### **My final decision**

For the reasons explained, I don't uphold Mrs C's complaint about Mercedes-Benz Financial Services UK Limited, trading as Mercedes-Benz Finance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 12 March 2025.

Andrew Burford  
**Ombudsman**