

## **The complaint**

Miss C complains that the car Black Horse Limited supplied was of lesser value than she was led to believe she was receiving. Miss C would like to be able to get a refund of all monies paid towards her agreement.

## **What happened**

Miss C entered into a hire purchase agreement with Black Horse in December 2020 for the purchase of a car. The cash price of the car was £10,999, Miss C paid a deposit of around £3,000 towards the car and the rest was paid through finance. The total cost of credit was £2,507. Miss C's agreement was set up to run for 60 months with a monthly repayment of £175.10. The car was a used car and had a mileage of around 22,501.

Miss C says when she acquired the car, the accompanying documentation at the time of sale states the car as a model 'A' car but when she tried to sell the car, she discovered it was model 'B' which is a cheaper model compared to model A. Miss C says the dealer at the point of sale told her that the road tax would cost £35 but when she had to pay for road tax it was around £160. Miss C says although this raised her suspicions she didn't take any further actions.

Miss C complained to Black Horse, but it didn't uphold her complaint. However, it offered £200 as the difference in price between both models at the time Miss C acquired the car. Unhappy with the response, Miss C referred her complaint to the Financial Ombudsman Service where it was looked at by one of our investigators.

When this service requested Black Horse's case file, it responded saying in addition to paying £200, it was willing to offer a further £150 for the trouble and upset caused. Black Horse also offered to refund the difference in the cost of the road tax on both models. Our investigator looked at what both parties said and agreed that Miss C got a model different to what she thought she was receiving, however he wasn't satisfied Miss C won't have acquired the car even if she was aware it was a model B car. Our investigator thought Black Horse's offer was fair and asked Black Horse to include interest on any refunds.

Miss C didn't accept the investigator's findings, she said Black Horse had valued the cars in a way that was neither independent nor transparent and she disputes the difference in price is £200. Miss C says she's carried out her own investigation on the difference in price of the models and she found it was over £1,000.

As the complaint hasn't been resolved, it 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.

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. Miss C was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

Both parties have provided a good deal of evidence, so I've had to summarise things in this decision. The rules of our service allow me to do this, but I want to assure the parties, if I don't mention every single point that's been raised, it's not because I haven't thought about it. I have considered everything that's been said and sent to us. However, I'm going to concentrate here on what I consider is key to reaching a fair and reasonable outcome overall.

Section 56 of the Consumer Credit Act 1974 has the effect of holding Black Horse responsible for the antecedent negotiations between Miss C and the broker – who acted as Black Horse's agent when brokering the hire purchase agreement. What this means is that anything said or done by the broker when arranging the finance agreement, I can consider against Black Horse. It isn't in dispute that the car Miss C was supplied with is different to what was on the documentation at the time of sale, both parties have accepted this. I can see from the information provided that the agreement and receipt at the point of sale refers to the car as model A, but the car is model B. This is a statement of fact.

To establish misrepresentation, in addition to there being a statement of fact that is false, the statement should have induced Miss C to enter the agreement. Miss C's representative has said she wouldn't have entered the agreement had she known the car was a model B rather than A. However, I haven't seen anything that persuades me Miss C went out to buy model A and that she wouldn't have entered the agreement even if she knew it was model B from the start. I'm also mindful that Miss C found out about the road tax being more expensive than she was led to believe and didn't take further action. I think had it been a point that induced her to take out the agreement, she'd likely have raised concerns about it sooner. By the time Miss C complained about this issue, she had use of the car of over 45 months and had travelled over 20,000 miles since she acquired.

Miss C received the car's V5 document around six weeks after she acquired it, this document stated the car was a model B - the correct model. This was in direct contradiction to what Miss C says she was led to believe and what was on the car documentation at the point of sale. I can't see that Miss C took any actions in reaction to this information. I appreciate she has said she relied on what she was told at the time of sale, but I think had the car model been an inducement, it is likely a reasonable person would have reacted to the contradictory information.

These circumstances lead me to conclude the specific car model didn't induce Miss C to take out the agreement. So, I don't think a refund of all monies paid under the agreement will be fair or reasonable in the circumstances.

However, I can understand why Miss C feels let down, now she has discovered, at the point she wanted to sell the car that she'd been supplied with a different model. I think that Black Horse recognises this and the offer of £150 is fair compensation in the circumstances for the trouble and upset this caused.

I also think the difference in the cost of the road tax should be refunded to Miss C as she'd been led to believe she'd only pay £35 to tax the car but was more than that. Black Horse has offered to refund the difference in price over the period, again I think this is fair. Miss C has provided evidence of her paying £160 towards her road tax and not £35 she was led to believe.

In relation to the difference in price of the models, Black Horse has supplied information about price difference in both models, which shows £200 difference. I appreciate Miss C has said she found the price difference to be over £1,000 when she checked it and has disputed how Black Horse reached its valuation. I'm mindful Miss C's search was for the recent prices and not the prices of the cars in December 2020 when she acquired the car.

I've investigated the cost of both models around December 2020, which is the time Miss C acquired the car and from what I've found, the costs of the cars at that time are closer to what Black Horse has offered. So, I think Black Horse's offer of £200 is fair. I also think it is likely this extra amount would have impacted the interest Miss C paid on the agreement and it is fair for Black Horse to refund the associated interests.

Overall, I'm not persuaded that the difference in cost of the model is over £1,000 as Miss C has said, but closer to £200 as offered by Black Horse. I accept the paperwork was misleading and the cost of the road tax, but I'm not persuaded these induced Miss C to take out the agreement at the time. In my opinion Black Horse has offered a fair way to put things right for Miss C and so I won't be asking it to do more.

### **Putting things right– what Black Horse should do.**

- Refund the amount of £200 it has offered for the difference in models.
- Calculate and refund the difference in additional interest applied to the agreement and then apply 8% simple yearly interest†.
- Pay £150 for the distress and inconvenience caused.
- Calculate and refund the difference in road tax Miss C paid over the duration of the agreement.
- Add 8% simple yearly interest of the refunded amount for the road tax†.

† If Black Horse think tax is deductible from the interest, then it should give Miss C a certificate showing how much tax it has taken off if she asks for one.

### **My final decision**

For the reasons given above, I uphold Miss C's complaint and direct Black Horse Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 17 March 2025.

Oyetola Oduola  
**Ombudsman**