DRN-5266644

The complaint

Mr S complained about the way Telefonica UK Limited trading as O2 (Telefonica) dealt with a claim for compensation for a phone he bought through a fixed sum loan agreement with it.

What happened

Mr S bought a mobile phone for around £1,600 through a fixed sum loan agreement with Telefonica in October 2021. He needed to make monthly repayments of around £45 for 36 months towards the loan. Mr S settled the agreement in October 2023. Telefonica is both the supplier of the phone and the finance provider.

Mr S contacted the manufacturer I'll call G around March 2022 to report a fault with the phone's screen and to book a repair. He has provided evidence to show a warranty repair for the screen was carried out by G in June 2022.

There were further appointments scheduled for repairs in June and December 2023. Around October 2024, after experiencing another fault, Mr S complained to Telefonica as he didn't think the phone he bought was of satisfactory quality because he thought the faults were inherent and the phone wasn't durable. He said he provided evidence to show a fault was present within six months of purchase and wanted Telefonica to financially compensate him under the Consumer Rights Act 2015 (CRA) and for the distress and inconvenience caused to him for having a faulty phone. Mr S said he sold the phone as it was expensive to repair and to fund a replacement.

Telefonica investigated a complaint and said that Mr S didn't inform Telefonica of any faults within the first six months of purchasing the phone. It asked Mr S to provide evidence of faults including when they first occurred and to show that a claim was made within the first six months. Additionally, it asked for a statement from G to say that the faults were present at the point of purchase. It said as Mr S didn't provide the evidence requested it was unable to confirm what caused the fault and therefore unable to provide a remedy. However, it offered Mr S £50 towards a device bought through it directly and 30% discount on an airtime contract as a gesture of goodwill.

Mr S remained unhappy and referred his complaint to our service. He said that he provided evidence to show he reported a fault within six months of purchase and felt the request to get a statement from G was unreasonable. He wanted Telefonica to acknowledge its responsibilities under the CRA and apologise for the inconvenience caused. He said he wanted compensation for the costs associated to having repairs carried out, the depreciation of the faulty phone and for the inconvenience caused.
Our Investigator reviewed the complaint but didn't uphold it. She didn't think there was sufficient evidence to show the phone was inherently faulty or that Telefonica had the opportunity to inspect the phone. She explained after considering the CRA, it wasn't fair to ask Telefonica to give Mr S a price reduction.

Mr S didn't agree; he said that Telefonica was responsible for supplying a phone which was durable under the CRA. He said G wouldn't have done multiple repairs under warranty if there were signs of accidental or malicious damage. Also, because the faults happened within a short period, the phone was inherently faulty. The last fault with the phone wasn't repaired as he didn't want to pay for it and therefore, he was at a loss.

He said just because he sought repairs from G didn't mean Telefonica wasn't responsible to provide him with a remedy for defective goods under the CRA. So, although he didn't have the phone, he was still within his rights to seek a remedy from Telefonica.

He wanted Telefonica to pay towards the value of the replacement phone he bought.
As the matter remains unresolved, the complaint 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.

Where the evidence is incomplete or inconclusive (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Mr S bought a new phone using a fixed sum loan agreement with Telefonica. This is a regulated consumer credit agreement, and our service is able to consider complaints relating to these sorts of agreements.

The credit agreement includes a clause which broadly says Mr S had the right to sue Telefonica if he received unsatisfactory goods paid for under the agreement. Therefore, I can consider how Telefonica, as the supplier, dealt with the claim in relation to the quality of the phone provided under a regulated credit agreement.

The CRA is relevant to this complaint. The CRA implies terms into the contract that goods supplied will be of satisfactory quality. The CRA also sets out what remedies are available to consumers if statutory rights under a goods contract are not met. The goods were new so should have been in perfect working order when sold.

The CRA sets out that goods which do not conform to the contract at any time within the period of six months beginning with the day on which the goods were delivered to the consumer must be taken not to have conformed to it on that day, unless it's established the goods did conform to the contract on that day or that the application is incompatible with the nature of the goods or with how they fail to conform to the contract. The CRA also sets out what remedies might be available if there's been a breach of contract.

As a starting point I think it was for Mr S to show that there was a fault with the phone, which meant it was of unsatisfactory quality. Mr S said he reported problems with the phone within six months of purchase. I can see he contacted G to arrange a repair appointment in March 2022 – which was within six months of Mr S purchasing the phone. However, this doesn't provide details of what the fault was or how it happened. I've taken on board that there was a repair done in June 2022 – outside of six months of when Mr S got the phone, which might reflect the issues he experienced in March 2022. However, the report Mr S provided from G doesn't provide comprehensive details of the fault and how it occurred– there is a short description which says "No display and completely blank" which was repaired under warranty and parts required for the repair which seem to relate to the phone's battery and screen.

Additionally, Mr S has provided screenshots which he said showed that appointments were arranged in June and December 2023, but these don't show what faults were identified or if any repairs were carried out. Mr S has provided a photograph to show damage to the screen and explained this was identical to each fault. However, it's not clear which fault this relates to, so I can't make out whether this was from the first fault or the ones Mr S said the phone had afterwards. Mr S explained the inner screen weakened with use and seemed to leak internal liquid, which meant that the touch screen stopped working and the phone was non-functional. As I've not seen any clear evidence of the faults which happened in June and December 2023, I can't say that all of the faults were linked or the same or that Telefonica was provided sufficient evidence to get to the bottom of what happened.

I have taken into account Mr S' position that the phone was not durable. However, I think this needs to be supported with clear evidence. While I accept that Mr S experienced difficulties with the phone, I've not seen enough to demonstrate that these were as a result of an inherent fault or that the phone failed to meet a reasonable standard of durability. In the absence of independent evidence to support this, I think Telefonica would have found it hard to conclude that the phone was of unsatisfactory quality.

Mr S has explained the impact on having a faulty phone and said he thinks that Telefonica has been unreasonable because it asked to see a report from the manufacturer to state the phone was faulty within the first six months. Mr S said he reported problems with the phone within six months of receiving it, and that he believes it's for Telefonica to show the phone was free from fault at that time as it happened within a short period of time. However, I have to consider that just because Mr S reported a fault, doesn't automatically mean Telefonica had enough evidence to demonstrate there'd been a breach of contract. I'm also conscious that Telefonica wasn't involved at this stage.

I've also considered that even if the faults were down to something that made the phone of unsatisfactory quality, Mr S didn't contact the trader – Telefonica - about the issues. He arranged the repairs through G, the manufacturer. It seems those remedies worked (for a time) so the breach was remedied each time. I've also considered that as Mr S no longer has the phone; Telefonica can't now inspect or establish what the final fault relates to. So, I don't think Telefonica needs to do more for this issue.

I understand Mr S said he didn't get the final fault repaired as it was too costly, so he replaced the phone. He wants Telefonica to pay him £500 towards this cost because he said the phone it provided credit for wasn't durable. However, I don't think the evidence that's been provided show the nature of the faults in great detail. Also, Mr S didn't contact Telefonica, when he said the faults happened – he accepted repairs elsewhere. So, overall, I'm not persuaded it's fair to ask Telefonica to pay Mr S compensation in the particular circumstances now.

Additionally, if Mr S thinks the phone was worth less because the phone had a fault, which was inherent, I can't see that he's provided evidence to show the price he received for the phone in the condition it was in, compared to the price it should've been, had it been without fault.

Mr S has said he wants Telefonica to take responsibility under the CRA despite not having the phone anymore. However, I can't safely conclude, on balance, that the phone was inherently faulty, but even if I could, I don't think it's fair to ask Telefonica to provide a remedy under the CRA, including a refund of money or contribution to the cost of the new phone. While I appreciate Mr S said he experienced inconvenience and has had a financial loss, without sufficient evidence the phone wasn't of satisfactory quality, I can't conclude Telefonica failed to meet its obligations under the CRA.

It appears Telefonica addressed Mr S' concerns and explained what information it required in its response to his complaint. It offered £50 towards a device and 30% airtime if Mr S purchased it directly with Telefonica. I think it tried to resolve Mr S' complaint reasonably and

I don’t think it needed to do anything more. Mr S should contact Telefonica directly if he now wishes to accept this.

While I know it’ll disappoint Mr S, I’m not going to direct Telefonica to take any further action or refund him any money.

My final decision

I think Telefonica UK Limited trading as O2 did enough to resolve Mr S’ complaint. I don’t think it needs to do anything to settle the complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S to accept or reject my decision before 2 October 2025.

Amina Rashid
Ombudsman