

The complaint

Mr H complains that HSBC UK Bank Plc trading as first direct (“first direct”) rejected a claim he made under section 75 of the Consumer Credit Act 1974.

What happened

In January 2024, Mr H bought a combi microwave oven with a grill and convection oven facility from a retailer I’ll call “A”. He paid £223 for this using his first direct credit card. Mr H says he bought this particular model based on budget, available space in his kitchen and the belief in the description by the manufacturer that the convection oven setting would mimic a standard domestic oven where the heat is distributed equally within the chamber by a fan.

A few months after he bought the oven, Mr H tried to cook a ready-made pizza from frozen using the oven’s ‘AutoRoast’ pre-set setting. However, at the end of the cooking period, he noticed the pizza base was barely warm and the topping was about hand hot. Mr H says he had to subject the pizza to further cooking using the grill element for five minutes and then microwaved it for a further 30 seconds at which point he finally saw the topping begin to bubble.

Mr H repeated this with another frozen pizza and this time increased the input weight of the pizza by 30% but says the results weren’t much improved. He says this wasn’t what he expected from the oven and so he contacted the manufacturer who suggested that combination cooking could be a ‘trial and error process’ and that he should adjust the oven’s settings. Mr H pointed out that the setting he was using was a pre-set cooking method so he couldn’t adjust its settings.

Around this time, Mr H asked the manufacturer whether the oven could bake bread rolls as this was one of the main reasons he bought the oven. However, he says they kept sending him links to a recipe for making bread rolls but didn’t include any baking instructions. And eventually the manufacturer told Mr H that the oven was working as it should be which he disagreed with.

Mr H then contacted A who told him that the oven would need to be inspected to see if there was a fault or wasn’t working as intended. They arranged for an inspector to visit Mr H and test the oven but Mr H, having contacted the company, didn’t think their proposed tests were appropriate as they didn’t agree to cook a frozen pizza using the AutoRoast setting.

Mr H then contacted the manufacturer again asking whether he could bake bread in the oven. He says their response strongly indicated that bread and cakes couldn’t be satisfactorily baked in the oven due to the position of the fan and the heating element. Mr H felt this meant the oven wasn’t behaving as a standard domestic fan assisted oven, as claimed by A and the manufacturer.

Mr H then conducted his own tests on the oven and sent these to A. He said his tests backed up his opinion that the oven doesn’t perform as it should.

Mr H asked first direct to look into the matter and they considered a claim under section 75 of the Consumer Credit Act 1974 (s.75). They noted that A had agreed to accept the return of the oven from Mr H for a 45% retention fee and felt this was fair. They also said A had been reasonable in offering to arrange an inspection of the oven, which Mr H hadn't accepted, and that they couldn't take his own tests of the oven into consideration as this hadn't been provided by an independent third party.

Mr H then referred his complaint to us. Our investigator felt, in summary, felt the oven wasn't of satisfactory quality for what a reasonable person would expect, and this constituted a breach of contract, for which first direct were liable. They didn't agree and so Mr H's complaint has been passed to me to decide.

I issued my provisional decision on 16 May 2025, relevant extracts of which I include below that also forms part of my final decision.

'I want to acknowledge that I've summarised the events of this complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to decide matters quickly and within minimum formality. But I want to assure Mr H and first direct that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.'

I've taken into account relevant law which here includes s.75. This sets out that, in certain circumstances, if Mr H paid for goods, in part or in whole, on his first direct credit card, and there was a breach of contract or misrepresentation by the supplier, first direct can be held responsible.

The Consumer Rights Act 2015 (CRA) is also relevant here. This implies terms into Mr H's contract with A which includes that any goods supplied to him would be of satisfactory quality. The CRA sets out that the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory, taking account of any description of the goods, the price and all other relevant circumstances, and includes a requirement that the goods are fit for 'all the purposes for which goods of that kind are usually supplied'. The CRA also implies terms into the contract that goods will be as described.

I note that Mr H has conducted several tests on how the oven performs and in particular how it compares to a normal conventional oven. I'm afraid though that I have no way of knowing whether the tests he conducted were the required ones and therefore ones that clearly show that the oven isn't performing or behaving as it should. I have no reason to doubt Mr H's scientific credentials here; indeed, I have little doubt that he knows a lot more than I do about how ovens should perform and how this can be tested appropriately. However, I would have preferred much more certainty, for example in the form of a report by an independent party, that the tests show the oven isn't performing as it should, and therefore in line with what a reasonable person would expect.

I also can't be certain that the oven can't cook the foodstuffs that Mr H has used to test its function. It seems that Mr H has used a particular setting to cook frozen ready-made pizzas, but I don't think this means that other settings can't be used to cook these properly. Or to be more specific, that I've seen sufficient evidence that other settings on the oven can't cook these. So, I'm not currently satisfied that the oven can't perform as expected with that doubt in mind.

I'd add also that for me to say that the oven doesn't perform as it should with the current evidence that's been submitted, I would essentially be saying that the manufacturer shouldn't be selling and marketing the oven in this way and that is beyond the scope of my

remit, and the remit of first direct. I note that Mr H has referred to Trading Standards during his complaint and that may be a more appropriate forum to consider his allegations about the oven.

Overall, I currently haven't been persuaded that first direct dealt with Mr H's s.75 claim unreasonably'.

I asked both parties to send me any more evidence or comments they wanted me to consider.

First direct said they had nothing further to add.

Mr H disagreed with my provisional decision. He said:

- The oven had been described by the marketing on A's website as being able to function as a standard domestic convection oven and he bought it on that basis.
- The manufacturer had confirmed to him that the oven couldn't bake bread or fresh pizza from scratch, which a standard domestic convection oven could.
- He rejected the independent tests because they would only have measured the temperature the top of the oven and would also have determined if it could boil a cup of water. The tests wouldn't be testing the preset cooking programme for frozen pizza or determine if the oven behaved like a conventional convection oven.
- I may have been influenced by the fact that the manufacturer had a global presence and associated reputation.
- The evidence shows the oven wasn't 'as described' or 'fit for purpose', which is contrary to the requirements of the CRA.

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.

I'd like to thank both parties for their responses to my provisional decision. I've carefully considered what Mr H has said but I'm afraid I haven't been persuaded to change the decision I provisionally reached. The information he has given to me following my decision is information I already considered and commented on. I would just add that I haven't been influenced by the manufacturer's global reputation, but I have had to carefully consider the impact upholding this case would have on their rights to sell and market this product, either themselves or through others. That would be the same consideration I would take into account for any manufacturer in similar circumstances as these.

So, for the reasons I've given in this decision and in my provisional decision, I don't uphold this complaint.

Mr H has mentioned that he may well take this matter to the courts to decide. He is perfectly at liberty to do so, should he wish not to accept my decision. His legal rights won't be affected by this.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 11 July 2025.

Daniel Picken
Ombudsman