DRN-5646586

The complaint

Mr M complains that a car supplied to him under a hire purchase agreement with BMW Financial Services(GB) Limited trading as Alphera Financial Services was misrepresented to him.

What happened

In March 2024, Mr M was supplied with a used car through a hire purchase agreement with Alphera. The agreement was for £29,790 to be repaid over a period of 49 months; with 48 monthly payments of £529.88 followed by an optional final payment of £13,809.83. At the time of supply, the car was around two years old and had covered around 27,500 miles.

Four months later, Mr M contacted Alphera as he'd discovered that the car had been modified with a nonstandard body kit. He said he didn't want a modified car, and that he wouldn't have entered the agreement if aware that the body kit wasn't manufacturer standard. He said the car had thin boot and front spoilers which were declared by the dealership, but he discovered that it also had a non-standard rear exhaust diffuser and side skirts. He said it would cost significantly more to insure a modified car, and he was concerned that any modifications would reduce the car's value. He said he no longer wanted the car and asked to hand it back.

Alphera contacted the dealership, who said the car was sold with a thin boot spoiler and lower bumper spoiler which were visible in photos. It said that as far as it was concerned, the car was otherwise to the manufacturer's specification and was sold as described.

A complaint was referred to this service. One of our Investigators considered the complaint and didn't uphold it. They didn't think there was any evidence to suggest the dealership made a false statement of fact when selling the car to Mr M, or that the car had any modifications beyond the manufacturer's optional extras.

Mr M didn't accept the Investigator's conclusions. He provided comments from the manufacturer confirming that the body kit doesn't come as standard with the car and that it was fitted by an independent third-party garage. The Investigator considered this but wasn't persuaded to change their opinion, as they didn't find that the dealership made a false statement of fact or otherwise misrepresented the car to Mr M. Mr M asked that the complaint be referred to an Ombudsman for a final decision. So, it's been passed to me to decide.

Since the complaint was referred to this service, Mr M has sold the car and settled the agreement.

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.

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 decision on the balance of probabilities – what I think is more likely than not 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. Mr M was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means I can consider a complaint about it. The Consumer Rights Act 2025 (CRA) is relevant to this complaint. The CRA says, in summary, that goods supplied must match a description given.

Section 56 of the Consumer Credit Act 1974 is also relevant here. Section 56 says that, under certain circumstances, a finance provider is liable for what was said by a credit broker or supplier when negotiating an agreement. I'm satisfied this applies here. So, I can consider the information Mr M was given by the dealership. This only applies to information Mr M was given before he entered the contract – not after.

What I need to consider is whether the car supplied to Mr M didn't meet its description or was otherwise misrepresented to him. A misrepresentation would have taken place if the dealership gave Mr M a 'false statement of fact' about the car, which induced him into entering the contract when he otherwise wouldn't have done.

It no longer appears to be in dispute that the car was fitted with a non-manufacturer standard body kit before it was supplied to Mr M. The manufacturer has confirmed that – based on photos of the car – the body kit didn't come as standard and would have been fitted by a third-party. Alphera has acknowledged this, and says the car was sold by a third-party dealership rather than an associated retailer, and that it wouldn't require all of its components to be manufacturer fitted before agreeing to finance it.

Mr M says the dealership should have highlighted any non-standard components before selling the car to him. It's worth noting that a misrepresentation wouldn't have occurred if Mr M *wasn't* explicitly told about any modifications. A false statement of fact would need to be made – so Mr M would need to have been told the car didn't have modifications or was 'standard', or something similar. The same applies when considering whether the car didn't match the description – it would need to be described as *not* being modified, or incorrect details would need to have been provided about any modifications, for that to be the case.

I've seen a copy of the car's online advert. This states that the car comes with a manufacturer brand package, as well as various other extras including a body kit. It doesn't state that the car is standard or that the body kit was supplied or fitted by the manufacturer. The advert also includes photos of the car, in which the thin front lip spoiler and boot spoiler are visible.

I've considered whether the advert contained a false statement of fact. Taking into account all of the information and relevant circumstances, I don't think it did. From the information I've seen it appears the car came with the manufacturer brand package as advertised, as well as a body kit. I haven't seen anything to suggest that Mr M was told before he entered the contract – either in the advert or otherwise by the dealership – that all of the car's components were manufacturer standard or that the car hadn't been modified. Mr M hasn't suggested that the dealership specifically told him the car was standard or that it hadn't been modified.

As I'm satisfied Mr M wasn't given a false statement of fact about the car before entering the agreement, it follows that I don't think the car was misrepresented to him. For the same reason, I’m satisfied the car supplied to Mr M was as described. So, I don’t think Alphera did anything wrong here. I appreciate this will come as a disappointment for Mr M, but I don’t conclude that Alphera needs to do anything further.

My final decision

My final decision is that I don’t uphold Mr M’s complaint about BMW Financial Services(GB) Limited trading as Alphera Financial Services.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr M to accept or reject my decision before 24 September 2025.

Stephen Billings
Ombudsman