DRN-5824166

The complaint

Mrs P's complaint is, in essence, that Mitsubishi HC Capital UK Plc (the 'Lender') acted unfairly and unreasonably by (1) being party to an unfair credit relationship with her under Section 140A of the Consumer Credit Act 1974 (as amended) (the 'CCA'), (2) deciding against paying a claim under Section 75 of the CCA, and (3) funding the purchase of an Unregulated Collective Investment Scheme from an unauthorised broker.

What happened

Mrs P was the member of a timeshare provider (the 'Supplier') – having purchased a trial membership. But the product at the centre of this complaint is her membership of a timeshare that I'll call the 'Fractional Club' – which she bought on 8 May 2017 (the 'Time of Sale'). She entered into an agreement with the Supplier to buy 800 fractional points at a cost of £12,316 after trading in her trial membership for an unknown discount (the 'Purchase Agreement').

Fractional Club membership was asset backed – which meant it gave Mrs P more than just holiday rights. It also included a share in the net sale proceeds of a property named on the Purchase Agreement (the 'Allocated Property') after her membership term ends.

Mrs P paid for her Fractional Club membership by taking finance of £12,316 from the Lender (the 'Credit Agreement').

Mrs P – using a professional representative (the 'PR') – wrote to the Lender on 24 June 2019 (the 'Letter of Complaint') to raise several different concerns. Since then, the PR has raised some further matters it says are relevant to this outcome of the complaint. As both sides are familiar with the concerns raised, it isn't necessary to repeat them in detail here beyond the summary above.

The Lender dealt with Mrs P's concerns as a complaint and issued its final response letter on 26 May 2020, rejecting it on every ground.

The complaint was then referred to the Financial Ombudsman Service. It was assessed by an Investigator who, having considered the information on file, rejected the complaint on its merits.

Mrs P disagreed with the Investigator's assessment and asked for an Ombudsman's decision – which is why it was passed to me. I issued a provisional decision and follow-up email explaining why I did not think this complaint should be upheld. The Lender agreed with this, but the PR on behalf of Mrs P said it did not. In essence, it said that Fractional Club membership was sold or marketed as an investment in breach of the relevant regulations and this should lead me to uphold this complaint.

The legal and regulatory context

In considering what is fair and reasonable in all the circumstances of the complaint, I am required under DISP 3.6.4R to take into account: relevant (i) law and regulations; (ii)

regulators' rules, guidance and standards; and (iii) codes of practice; and (where appropriate), what I consider to have been good industry practice at the relevant time.

The legal and regulatory context that I think is relevant to this complaint is no different to that shared in several hundred ombudsman decisions on very similar complaints. And with that being the case, it is not necessary to set it out here. The following is also relevant:

The Consumer Credit Sourcebook ('CONC') – Found in the Financial Conduct Authority's (the 'FCA') Handbook of Rules and Guidance

Below are the most relevant provisions and/or guidance as they were at the relevant time:

CONC 3.7.3 [R]
CONC 4.5.3 [R]
CONC 4.5.2 [G]

The FCA's Principles

The rules on consumer credit sit alongside the wider obligations of firms, such as the Principles for Businesses ('PRIN'). Set out below are those that are most relevant to this complaint:

Principle 6
Principle 7
Principle 8

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 considered the PR's response to my provisional decision, I am not persuaded to alter it. As such, I have decided not to uphold this complaint. The following is largely what I said in my provisional decision and follow-up email, since I see no reason to change my findings.

Section 75 of the CCA: the Supplier's misrepresentations at the Time of Sale

The CCA introduced a regime of connected lender liability under section 75 that affords consumers ("debtors") a right of recourse against lenders that provide the finance for the acquisition of goods or services from third-party merchants ("suppliers") if there is an actionable misrepresentation and/or breach of contract by the supplier.

Certain conditions must be met if the protection afforded to consumers is engaged, including, for instance, the cash price of the purchase and the nature of the arrangements between the parties involved in the transaction. The Lender doesn't dispute that the relevant conditions are met. But for reasons I'll come on to below, it isn't necessary to make any formal findings on them here.

It was said in the Letter of Complaint and later that Fractional Club membership had been misrepresented by the Supplier at the Time of Sale because Mrs P was:

(1) Told by the Supplier that Fractional Club membership had a guaranteed end date when that was not true.

(2) Told that Fractional Club membership was a timeshare when it was actually an Unregulated Collective Investment Scheme.

(3) Not told that her beneficiaries would inherit Fractional Club membership on her death including the liabilities associated with this (specifically annual management charges).

Neither the PR nor Mrs P have set out in any detail what words and/or phrases where allegedly used by the Supplier to misrepresent Fractional Club for the reason given in points 1. However, the PR says that such representations were untrue because the Allocated Property was legally owned by a trustee and there was no indication of what duty of care it had to actively market and sell the property. Further, there is no guarantee that any sale will result at all, leaving prospective members to pay their annual management charge for an indefinite and unspecified period.

However, I cannot see why the phrases in point 1 above would have been untrue at the Time of Sale even if it was said. It seems to me to reflect the main thrust of the contract Mrs P entered. And while, under the relevant Fractional Club Rules, the sale of the Allocated Property could be postponed for up to two years by the 'Vendor'[1], longer than that if there were problems selling and the 'Owners'[2] agreed, or for an otherwise specified period provided there was unanimous agreement in writing from the Owners, that does not render the representation above untrue. So, I am not persuaded that the representation above constituted a false statement of fact even if it was made.

As for point 2, I am satisfied that Fractional Club membership was a 'timeshare contract' as defined by The Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010 (the 'Timeshare Regulations'):

> *"7.— (1) A "timeshare contract" means a contract between a trader and a consumer—*
>
> *(a) under which the consumer, for consideration, acquires the right to use overnight accommodation for more than one period of occupation, and*
>
> *(b) which has a duration of more than one year, or contains provision allowing for the contract to be renewed or extended so that it has a duration of more than one year.*
>
> *(2) The reference to "accommodation" in paragraph (1) includes a reference to accommodation within a pool of accommodation."*

The Financial Services and Markets Act (Collective Investment Schemes) Order 2001/1062 specifically states at Schedule 001 Arrangements Not Amounting to a Collective Investment Scheme, Paragraph 13, that arrangements do not amount to a Collective Investment Scheme:

> *"if the rights or interests of the participants are rights under a timeshare contract or a long-term holiday product contract"*.

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[1] Defined in the FPOC Rules as "CLC Resort Developments Limited".
[2] Defined in the FPOC Rules as "a purchaser who has entered into a Purchase Agreement and has been issued with a Fractional Rights Certificate (which shall include the Vendor for such period of time until the maximum number of Fractional Rights have been acquired)."

Bearing in mind that Fractional Club membership was a timeshare contract, it does not appear that it can also have been a Collective Investment Scheme.[3] And therefore describing Fractional Club membership as a timeshare was not untrue and therefore was not a misrepresentation.

On point 3, this allegation appears to be that Mrs P wasn't given all the information she needed at the Time of Sale, and I will deal with this further below.

So, while I recognise that Mrs P – and the PR – have concerns about the way Fractional Club membership was sold by the Supplier, when looking at the claim under Section 75 of the CCA, I can only consider whether there was a factual and material misrepresentation by the Supplier. For the reasons I've set out above, I'm not persuaded that there was. And that means that I don't think that the Lender acted unreasonably or unfairly when it dealt with this particular Section 75 claim.

Section 140A of the CCA: did the Lender participate in an unfair credit relationship?

I've already explained why I'm not persuaded that Fractional Club membership was actionably misrepresented by the Supplier at the Time of Sale. But there are other aspects of the sales process that, being the subject of dissatisfaction, I must explore with Section 140A in mind if I'm to consider this complaint in full – which is what I've done next.

Having considered the entirety of the credit relationship between Mrs P and the Lender along with all of the circumstances of the complaint, I don't think the credit relationship between them was likely to have been rendered unfair for the purposes of Section 140A. When coming to that conclusion, and in carrying out my analysis, I have looked at:

1. The standard of the Supplier's commercial conduct – which includes its sales and marketing practices at the Time of Sale along with any relevant training material.

2. The provision of information by the Supplier at the Time of Sale, including the contractual documentation and disclaimers made by the Supplier.

3. Evidence provided by both parties on what was likely to have been said and/or done at the Time of Sale; and

4. The inherent probabilities of the sale given its circumstances.

5. Any existing unfairness from a related credit agreement.

I have then considered the impact of these on the fairness of the credit relationship between Mrs P and the Lender.

The Supplier's sales & marketing practices at the Time of Sale

Mrs P's complaint about the Lender being party to an unfair credit relationship was and is made for several reasons.

They include allegations that:

1. Mrs P was pressured by the Supplier into purchasing Fractional Club membership at the Time of Sale.

[3] This was dealt with at length in *Shawbrook & BPF v FOS* at paras 39 to 54.

2. The Credit Agreement was unaffordable.

3. The commission arrangements between the Lender and the Supplier at the Time of Sale and the disclosure of those arrangements.

4. The Supplier breached Regulation 14(3) of the Timeshare Regulations by selling or marketing Fractional Club membership to Mrs P as an investment.

5. The Lender paid commission to the Supplier for arranging the loan but did not give Mrs P sufficient information about this.

However, as things currently stand, none of this strikes me a reason why this complaint should succeed.

I acknowledge that Mrs P may have felt weary after a sales process that went on for a long time. But she says little about what was said and/or done by the Supplier during her sales presentation that made her feel as if she had no choice but to purchase Fractional Club membership when she simply did not want to. She was also given a 14-day cooling off period and she have not provided a credible explanation for why she did not cancel her membership during that time. And with all of that being the case, there is insufficient evidence to demonstrate that Mrs P made the decision to purchase Fractional Club membership because her ability to exercise that choice was significantly impaired by pressure from the Supplier.

I haven't seen anything to persuade me that the right checks weren't carried out by the Lender given this complaint's circumstances. But even if I were to find that the Lender failed to do everything it should have when it agreed to lend (and I make no such finding), I would have to be satisfied that the money lent to Mrs P was actually unaffordable before also concluding that she lost out as a result and then consider whether the credit relationship with the Lender was unfair to her for this reason. But from the information provided, I am not satisfied that the lending was unaffordable for the Mrs P.

Overall, therefore, I don't think that Mrs P credit relationship with the Lender was rendered unfair to her under Section 140A for any of the reasons above. But there is another reason, perhaps the main reason, why the PR now says the credit relationship with the Lender was unfair to her. And that's the suggestion that Fractional Club membership was marketed and sold to her as an investment in breach of the prohibition against selling timeshares in that way.

The Supplier's alleged breach of Regulation 14(3) of the Timeshare Regulations

The Lender does not dispute, and I am satisfied, that Mrs P's Fractional Club membership met the definition of a "timeshare contract" and was a "regulated contract" for the purposes of the Timeshare Regulations.

Regulation 14(3) of the Timeshare Regulations prohibited the Supplier from marketing or selling Fractional Club membership as an investment. This is what the provision said at the Time of Sale:

> *"A trader must not market or sell a proposed timeshare contract or long-term holiday product contract as an investment if the proposed contract would be a regulated contract."*

But the PR and Mrs P now say that the Supplier did exactly that at the Time of Sale – even though the Letter of Complaint and later correspondence said the opposite – that Fractional

Club membership was sold as a timeshare and that Mrs P was not told it was a type of investment.

The term "investment" is not defined in the Timeshare Regulations. But for the purposes of this provisional decision, and by reference to the decided authorities, an investment is a transaction in which money or other property is laid out in the expectation or hope of financial gain or profit.

A share in the Allocated Property may have constituted an investment as it offered Mrs P the prospect of a financial return – whether or not, like all investments, that was more than what she first put into it. But it is important to note at this stage that the fact that Fractional Club membership included an investment element did not, itself, transgress the prohibition in Regulation 14(3). That provision prohibits the *marketing and selling* of a timeshare contract as an investment. It doesn't prohibit the mere existence of an investment element in a timeshare contract or prohibit the marketing and selling of such a timeshare contract *per se*.[4]

In other words, the Timeshare Regulations did not ban products such as the Fractional Club. They just regulated how such products were marketed and sold.

To conclude, therefore, that Fractional Club membership was marketed or sold to Mrs P as an investment in breach of Regulation 14(3), I have to be persuaded that it was more likely than not that the Supplier marketed and/or sold membership to her as an investment, i.e. told her or led her to believe that Fractional Club membership offered her the prospect of a financial gain (i.e., a profit) given the facts and circumstances of *this* complaint.

There is competing evidence in this complaint as to whether Fractional Club membership was marketed and/or sold by the Supplier at the Time of Sale as an investment in breach of regulation 14(3) of the Timeshare Regulations.

On the one hand, it is clear that the Supplier made efforts to avoid specifically describing membership of the Fractional Club as an 'investment' or quantifying to prospective purchasers, such as Mrs P, the financial value of her share in the net sales proceeds of the Allocated Property along with the investment considerations, risks and rewards attached to them.

On the other hand, I acknowledge that the Supplier's sales process left open the possibility that the sales representative may have positioned Fractional Club membership as an investment. So, I accept that it's equally possible that Fractional Club membership was marketed and sold to Mrs P as an investment in breach of Regulation 14(3).

However, whether or not there was a breach of the relevant prohibition by the Supplier is not ultimately determinative of the outcome in this complaint for reasons I will come on to shortly. And with that being the case, it's not necessary to make a formal finding on that particular issue for the purposes of this decision.

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[4] The PR has argued that Fractional Club membership amounted to an Unregulated Collective Investment Scheme, however this was considered and rejected in the judgment in *R (on the application of Shawbrook Bank Ltd) v Financial Ombudsman Service Ltd and R (on the application of Clydesdale Financial Services Ltd (t/a Barclays Partner Finance)) v Financial Ombudsman Service* [2023] EWHC 1069 (Admin).

Was the credit relationship between the Lender and the Consumer rendered unfair?

Having found that it was possible that the Supplier breached Regulation 14(3) of the Timeshare Regulations at the Time of Sale, I now need to consider what impact that breach had on the fairness of the credit relationship between Mrs P and the Lender under the Credit Agreement and related Purchase Agreement as the case law on Section 140A makes it clear that regulatory breaches do not automatically create unfairness for the purposes of that provision. Such breaches and their consequences (if there are any) must be considered in the round, rather than in a narrow or technical way.

Indeed, it seems to me that, if I am to conclude that a breach of Regulation 14(3) led to a credit relationship between Mrs P and the Lender that was unfair to her and warranted relief as a result, whether the Supplier's breach of Regulation 14(3) led her to enter into the Purchase Agreement and the Credit Agreement is an important consideration. I disagree with the PR's suggestion that an unfair credit relationship will always be created if a Supplier sells or markets Fractional Club membership as an investment to a customer who uses a point of sale loan to pay for it.

In this case, on my reading of the evidence before me, the prospect of a financial gain from Fractional Club membership was not an important and motivating factor when Mrs P decided to go ahead with her purchase. I say this because:

- The Letter of Complaint did not mention Fractional Club membership being marketed or sold as an investment – on the contrary, it alleged that while Fractional Club membership was a type of investment, this was *not* made clear to Mrs P.

- The allegation that Fractional Club membership was marketed and sold as an investment was first raised by the PR on 24 November 2023, in response to our Investigator's assessment. It specifically referenced a judicial review case[5] which confirmed an ombudsman could find there was an unfair relationship created by a breach of Regulation 14(3) if this was material to a consumer's decision to purchase.

- On 5 July 2020, the PR provided a 'Statement of Truth', signed by Mrs P on 25 June 2020. This said the following in relation to what she was told about Fractional Club membership – none of which suggests to me that the prospect of making a profit from the purchase was a factor in Mrs P's decision to make the purchase:

    - *"The focus during the presentation is on the low costs of ownership…"*

    - *"The statements delivered by the representatives were mainly about the number of holidays I could have. Absolutely nothing was discussed regarding the ownership."*

    - *"I upgraded the trial membership on the basis if I didn't, I would lose my £4,500 that I paid for my Trial, and the remaining holidays."*

    - *"The sales representative was very good and offered me another free holiday in with the package and several other deals that made the offer not to miss for which I jumped at the because they made it sound so good…"*

[5] *R (on the application of Shawbrook Bank Ltd) v Financial Ombudsman Service Ltd and R (on the application of Clydesdale Financial Services Ltd (t/a Barclays Partner Finance)) v Financial Ombudsman Service [2023] EWHC 1069 (Admin)*

- *"I have not tried to sell or rent the arrangement as I really did not think I was entering into an arrangement where I could do this. Nor did I have the requisite knowledge or expertise to do this. I was told that this was simply an arrangement where I would get very cheap holidays."*

- On the contrary, it does not appear that Mrs P recalls being told Fractional Club membership was an investment, that she saw it as such or that this was material to her decision to purchase. She specifically says the focus was on the holidays she could take, the low cost of doing so, not losing what she had paid for her trial membership and feeling pressured into the purchase.

- On 6 May 2025, the PR provided what it described as "call notes". These were dated 5 August 2019 and appear to be notes made following a call with Mrs P (there is no indication of who took the notes). These call notes said the following:

    - *"Hi Davinder - please explain in your own words about the timeshare purchase.*
      I with my mother was in Turkey for 2 week of my trial membership holiday.
      We were invited by local sales rep to attend a presentation.
      The presentation was done on screen
      Various holiday and destination
      Cheaper holiday than normal holiday
      Rep told me about owing the timeshare and all positive aspects of the purchase.
      The slide showed - investment element of purchase.
      It was a low cost of ownership. Lots of manager gave slick pitch on property purchase.
      I advised them that I could not afford the purchase as I was on pensionable income and not working.
      I upgrade my trial membership because I would [lose] out the cost of trial which was £4k. They said they could trade in the trial and give discount on the Fractional Purchase. It was asset backed purchase
      I did not understand the complexity of this transaction
      How even the loan was approved there and then
      The finance was not explained to me. I was retired
      Why would a bank approve my loan.
      Process of the claim was explained and pack to be sent by email to: [Mrs P's email address]"

- I do not find the call notes to be persuasive evidence in this case given when they were provided and that elements of it (specifically those regarding Fractional Club membership being sold or marketed as an investment) do not appear in Mrs P's signed Statement of Truth or elsewhere in any correspondence from the PR in relation to this complaint prior to 24 November 2023.

- In any case, and most important to the outcome of this complaint, the call notes (even if I accepted them to be an accurate reflection of what Mrs P told the PR in August 2019) do not persuade me that Fractional Club membership being marketed or sold as an investment was material to Mrs P's decision to purchase. In the call note the reason she has given for entering the purchase was so as not to lose out on the cost of the trial membership.

It is not clear that Mrs P was interested in a share in the Allocated Property. But if she was, that wouldn't be surprising given the nature of the product at the centre of this complaint. But as Mrs hasn't persuaded me that her purchase was motivated by the share in the Allocated Property and the possibility of a profit, I don't think a breach of Regulation 14(3) by the Supplier was likely to have been material to the decision Mrs P ultimately made.

On balance, therefore, even if the Supplier had marketed or sold the Fractional Club membership as an investment in breach of Regulation 14(3) of the Timeshare Regulations, I am not persuaded that Mrs P's decision to purchase Fractional Club membership at the Time of Sale was motivated by the prospect of a financial gain (i.e., a profit). On the contrary, I think the evidence suggests she would have pressed ahead with her purchase whether or not there had been a breach of Regulation 14(3). And for that reason, I do not think the credit relationship between Mrs P and the Lender was unfair to her even if the Supplier had breached Regulation 14(3).

The provision of information by the Supplier at the Time of Sale

The PR says that Mrs P was not given sufficient information at the Time of Sale by the Supplier about Fractional Club membership, including that Mrs P's heirs could inherit the costs of the membership.

As I've already indicated, the case law on Section 140A makes it clear that it does not automatically follow that regulatory breaches create unfairness for the purposes of the unfair relationship provisions. The extent to which such mistakes render a credit relationship unfair must also be determined according to their impact on the complainant.

I acknowledge that it is also possible that the Supplier did not give Mrs P sufficient information, in good time, on the various charges she could have been subject to as Fractional Club members to satisfy the requirements of Regulation 12 of the Timeshare Regulations (which was concerned with the provision of 'key information'). But even if that was the case, I cannot see that the ongoing costs of membership were applied unfairly in practice. And as neither Mrs P nor the PR have persuaded me that she would not have pressed ahead with her purchase had the finer details of the Fractional Club's ongoing costs been disclosed by the Supplier in compliance with Regulation 12, I cannot see why any failings in that regard are likely to be material to the outcome of this complaint given its fact and circumstances.

As for the PR's argument that Mrs P's heirs would inherit the on-going management charges, I fail to see how that could be the case or that it could have led to an unfairness that warrants a remedy.

Commission: the unfair relationship complaint

Mrs P says that a payment of commission from the Lender to the Supplier at the Time of Sale should lead me to uphold this complaint because, simply put, information in relation to that payment went undisclosed at the Time of Sale.

As both sides already know, the Supreme Court handed down an important judgment on 1 August 2025 in a series of cases concerned with the issue of commission: Johnson v FirstRand Bank Ltd, Wrench v FirstRand Bank Ltd and Hopcraft v Close Brothers Ltd [2025] UKSC 33 ('Hopcraft, Johnson and Wrench').

The Supreme Court ruled that, in each of the three cases, the commission payments made to car dealers by lenders were legal, as claims for the tort of bribery, or the dishonest assistance of a breach of fiduciary duty, had to be predicated on the car dealer owing a

fiduciary duty to the consumer, which the car dealers did not owe. A “disinterested duty”, as described in Wood v Commercial First Business Ltd & ors and Business Mortgage Finance 4 plc v Pengelly [2021] EWCA Civ 471, is not enough.

However, the Supreme Cort held that the credit relationship between the lender and Mr Johnson was unfair under Section 140A of the CCA because of the commission paid by the lender to the car dealer. The main reasons for coming to that conclusion included, amongst other things, the following factors:

1. The size of the commission (as a percentage of the total charge for credit). In Mr Johnson’s case it was 55%. This was “so high” and “a powerful indication that the relationship…was unfair” (see paragraph 327).
2. The failure to disclose the commission.
3. The concealment of the commercial tie between the car dealer and the lender.

The Supreme Court also confirmed that the following factors, in what was a non-exhaustive list, will normally be relevant when assessing whether a credit relationship was/is unfair under Section 140A of the CCA:

1. The size of the commission as a proportion of the charge for credit.
2. The way in which commission is calculated (a discretionary commission arrangement, for example, may lead to higher interest rates).
3. The characteristics of the consumer.
4. The extent of any disclosure and the manner of that disclosure (which, insofar as Section 56 of the CCA is engaged, includes any disclosure by a supplier when acting as a broker).
5. Compliance with the regulatory rules.

From my reading of the Supreme Court’s judgment in Hopcraft, Johnson and Wrench, it sets out principles which apply to credit brokers other than car dealer–credit brokers. So, when considering allegations of undisclosed payments of commission like the one in this complaint, Hopcraft, Johnson and Wrench is relevant law that I’m required to consider under Rule 3.6.4 of the Financial Conduct Authority’s Dispute Resolution Rules (‘DISP’).

But I don’t think Hopcraft, Johnson and Wrench assists Mrs P in arguing that her credit relationship with the Lender was unfair to her for reasons relating to commission given the facts and circumstances of this complaint.

I haven’t seen anything to suggest that the Lender and Supplier were tied to one another contractually or commercially in a way that wasn’t properly disclosed to Mrs P, nor have I seen anything that persuades me that the commission arrangement between them gave the Supplier a choice over the interest rate that led Mrs P into a credit agreement that cost disproportionately more than it otherwise could have.

I acknowledge that it’s possible that the Lender and the Supplier failed to follow the regulatory guidance in place at the Time of Sale insofar as it was relevant to disclosing the commission arrangements between them.

But as I’ve said before, the case law on Section 140A makes it clear that regulatory breaches do not automatically create unfairness for the purposes of that provision. Such breaches and their consequences (if there are any) must be considered in the round, rather than in a narrow or technical way. And with that being the case, it isn’t necessary to make a formal finding on that because, even if the Lender and the Supplier failed to follow the relevant regulatory guidance at the Time of Sale, it is for the reasons set out below that I

don’t think any such failure is itself a reason to find the credit relationship in question unfair to Mrs P.

Based on what I’ve seen so far, the Supplier’s role as a credit broker wasn’t a separate service and distinct from its role as the seller of timeshares. It was simply a means to an end in the Supplier’s overall pursuit of a successful timeshare sale. I can’t see that the Supplier gave an undertaking – either expressly or impliedly – to put to one side its commercial interests in pursuit of that goal when arranging the Credit Agreement. And as it wasn’t acting as an agent of Mrs P but as the supplier of contractual rights that she obtained under the Purchase Agreement, the transaction doesn’t strike me as one with features that suggest the Supplier had an obligation of ‘loyalty’ to her when arranging the Credit Agreement and thus a fiduciary duty.

What’s more, in stark contrast to the facts of Mr Johnson’s case, as I understand it, the Lender didn’t pay the Supplier any commission at the Time of Sale. And with that being the case, even if there were information failings at that time and regulatory failings as a result (which I make no formal finding on), I’m not persuaded that the commission arrangements between the Supplier and the Lender were likely to have led to a sufficiently extreme inequality of knowledge that rendered the credit relationship unfair to Mrs P.

Conclusion

In conclusion, I do not think that the Lender acted unfairly or unreasonably when it dealt with the relevant Section 75 claim(s), and I am not persuaded that the Lender was party to a credit relationship with Mrs P under the Credit Agreement that was unfair to her for the purposes of Section 140A of the CCA – nor do I see any other reason why it would be fair or reasonable to direct the Lender to compensate her.

My final decision

For the reasons I’ve explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs P to accept or reject my decision before 18 February 2026.

Phillip Lai-Fang
Ombudsman