DRN-6109549

The complaint

Mr S complains Mitsubishi HC Capital Finance Plc (the "Lender") has failed to honour a claim under Section 75 of the Consumer Credit Act 1974 (the "CCA") and has participated in an unfair credit relationship with him under Section 140A of the CCA.

Mr S is represented in his complaint by a professional representative ("PR").

What happened

I issued a provisional decision on this complaint on 17 December 2025 in which I set out the background to the case and my provisional findings on it. A copy of that provisional decision is appended to and forms part of this final decision, so it's not necessary to go over all the details again. However, to summarise:

- Mr S entered an agreement to buy a timeshare (the "Purchase Agreement") from a timeshare provider (the "Supplier") on 21 May 2018 (the "Time of Sale"), for £12,649. This was financed by a loan of the same amount from the Lender (the "Credit Agreement").

- The timeshare was a type of asset-backed timeshare known as the "Signature Club" which entitled Mr S to more than holiday rights. It also entitled him to a share in the proceeds of a property named on his purchase agreement (the "Allocated Property") after his contract came to an end. Due to the way the deal was structured, it also gave Mr S the right to stay in the Allocated Property, which was a luxury apartment, in either week 34 or week 27 of the year, depending on whether it was an odd or an even year.

- Mr S later complained, via a professional representative ("PR"), to the Lender about a number of concerns which included misrepresentations by the Supplier giving Mr S a claim against the Lender under Section 75 of the CCA, and matters giving rise to an unfair credit relationship between Mr S and the Lender.

- The Lender rejected the complaint and it was then referred to the Financial Ombudsman Service for an independent assessment.

In my provisional decision I said I didn't think the complaint should be upheld. Again, my full findings can be found in the appended provisional decision, but in very brief summary:

- The Lender had not been unfair or unreasonable in declining Mr S's Section 75 claim for misrepresentation because:

    - Some of the alleged misrepresentations were in fact true statements or statements of opinion which there was no evidence to demonstrate were not honestly held.

    - The remaining alleged misrepresentations were too vague and lacking in colour and context to be able to draw a positive conclusion that the Supplier

had made false statements of specific fact to Mr S.

- The Lender had not participated in a credit relationship with Mr S that was unfair to him because:

    - Regardless of whether the Lender had carried out appropriate checks before lending to Mr S, there was a lack of evidence the loan had been unaffordable for him at the time.

    - The Credit Agreement had not been arranged by an unauthorised credit broker, nor was it relevant whether the individuals working for the credit broker were themselves authorised by the relevant regulator.

    - I did not think that any pressure put on Mr S by the Supplier had significantly impaired his ability to exercise a choice to buy the Signature Club timeshare. I noted in particular that Mr S had been given a cooling off period to cancel the purchase, which he had not used.

    - I acknowledged there were terms within the Purchase Agreement which had the potential to be exercised in an unfair way, but I'd not seen evidence to suggest they'd been operated in such a way with respect to Mr S or would be in the future.

    - It was possible the Supplier had breached Regulation 14(3) of the Timeshare Regulations by marketing the timeshare to Mr S as an investment, but I was not persuaded by Mr S's testimony as to this issue. He didn't say or suggest anywhere in his own testimony that the Supplier had sold or marketed the Signature Club product to him as an investment, and the facts of the purchase – which was a significant upgrade on Mr S's previous purchase in terms of holiday rights – suggested the upgrade to the Signature Club was not motivated by the prospect of it being a profitable investment.

I invited the parties to the complaint to respond to my provisional decision. The Lender accepted the provisional decision. PR didn't agree with the provisional decision, and asked me to consider various additional points, mostly relating to the alleged sale of the timeshare as an investment, but also relating to the alleged non-disclosure of a commission paid by the Lender to the Supplier for arranging the Credit Agreement. The case has now been returned to me to decide.

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, in many ways. no different to that shared in several hundred published ombudsman decisions on very similar complaints – which can be found on the Financial Ombudsman Service's website. And with that being the case, it is not necessary to set out that context in detail here. But I would add that the following regulatory rules/guidance are 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 3.7.3R
- CONC 4.5.3R
- CONC 4.5.2G

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.

Following the responses from both parties, I've considered the case afresh and having done so, I've reached the same decision as that which I outlined in my provisional findings, for broadly the same reasons.

Again, my role as an Ombudsman isn't to address every single point which has been made to date, but to decide what is fair and reasonable in the circumstances of this complaint. If I haven't commented on, or referred to, something that either party has said, this doesn't mean I haven't considered it.

Rather, I've focused here on addressing what I consider to be the key issues in deciding this complaint and explaining the reasons for reaching my final decision.

PR's comments in response to the provisional decision relate only to the issue of whether the credit relationship between Mr S and the Lender was unfair. In particular, PR has provided further comments in relation to whether the membership was sold to Mr S as an investment at the Time of Sale. It has also now argued for the first time that the payment of a commission by the Lender to the Supplier led to an unfair credit relationship.

As outlined in my provisional decision, PR originally raised various other points of complaint, all of which I addressed at that time. But it didn't make any further comments in relation to those in its response to my provisional decision. Indeed, it hasn't said it disagrees with any of my provisional conclusions in relation to those other points. And since I haven't been provided with anything more in relation to those other points by either party, I see no reason to change my conclusions in relation to them as set out in my provisional decision. So, I'll focus here on PR's points raised in response.

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

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

PR's arguments in response to my provisional findings on this aspect of the complaint essentially boil down to it not being unreasonable to assume that the Supplier would have sold all of its timeshares which came with an interest in an Allocated Property as investments.

PR invites me to conclude that the Supplier must have sold the Signature Club membership to Mr S at the Time of Sale as an investment, because it had a propensity to sell asset-backed timeshares in this way.

I don't think that's a proper basis on which to make such a finding, especially considering Mr S himself doesn't make any allegation that the product was sold to him in that way at the Time of Sale. I note PR has not challenged my analysis of Mr S's testimony. I see no reason to change that analysis or the conclusions I drew from it. I remain of the view that there's insufficient persuasive evidence the Supplier breached Regulation 14(3) of the Timeshare Regulations on this occasion.

The alleged payment of a commission by the Lender to the Supplier

PR 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 Court 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; and

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); and

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 Mr S in arguing that his credit relationship with the Lender was unfair to him 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 Mr S, 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 Mr S 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 currently think any such failure is itself a reason to find the credit relationship in question unfair to Mr S.

In stark contrast to the facts of Mr Johnson's case, the amount of commission paid by the Lender to the Supplier for arranging the Credit Agreement that Mr S entered into wasn't high. At £571.92, it was only 4.37% of the amount borrowed. So, had he known at the Time of Sale that the Supplier was going to be paid a flat rate of commission at that level, I'm not currently persuaded that he either wouldn't have understood that or would have otherwise questioned the size of the payment at that time. After all, Mr S wanted Fractional Club membership and had no obvious means of his own to pay for it. And at such a low level, the impact of commission on the cost of the credit he needed for a timeshare he wanted doesn't strike me as disproportionate. So, I think he would still have taken out the loan to fund his purchase at the Time of Sale had the amount of commission been disclosed.

What's more, 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 Mr S but as the supplier of contractual rights he 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 him when arranging the Credit Agreement and thus a fiduciary duty.

Overall, therefore, I'm not currently 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 Mr S.

Section 140A: Conclusion

Given all of the factors I've looked at in this part of my decision, and having taken all of them into account, I'm not persuaded that the credit relationship between Mr S and the Lender under the Credit Agreement and related Purchase Agreement was unfair to his. And as things currently stand, I don't think it would be fair or reasonable that I uphold this complaint on that basis.

Commission: The Alternative Grounds of Complaint

While I've found that Mr S'S credit relationship with the Lender wasn't unfair to him for reasons relating to the commission arrangements between it and the Supplier, two of the grounds on which I came to that conclusion also constitute separate and freestanding complaints to Mr S'S complaint about an unfair credit relationship. So, for completeness, I've considered those grounds on that basis here.

The first ground relates to whether the Lender is liable for the dishonest assistance of a breach of fiduciary duty by the Supplier because it took a payment of commission from the Lender without telling Mr S (i.e., secretly). And the second relates to the Lender's compliance with the regulatory guidance in place at the Time of Sale insofar as it was relevant to disclosing the commission arrangements between them.

However, for the reasons I set out above, I'm not persuaded that the Supplier – when acting as credit broker – owed Mr S a fiduciary duty. So, the remedies that might be available at law in relation to the payment of secret commission aren't, in my view, available to him. And while it's possible that the Lender failed to follow the regulatory guidance in place at the Time of Sale insofar as it was relevant to disclosing the commission arrangements between it and the Supplier, I don't think any such failure on the Lender's part is itself a reason to uphold this complaint because, for the reasons I also set out above, I think he would still have taken out the loan to fund his purchase at the Time of Sale had there been more adequate disclosure of the commission arrangements that applied at that time.

My final decision

For the reasons explained above, and in the appended provisional decision, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 24 February 2026.

Will Culley
Ombudsman

COPY OF PROVISIONAL DECISION

I've considered the relevant information about this complaint.

Having done so, I have arrived at the same conclusions as our Investigator, but am issuing this provisional decision due to having expanded on the reasons for my conclusions in some areas.

The deadline for both parties to provide any further comments or evidence for me to consider is **5 January 2026**. Unless the information changes my mind, my final decision is likely to be along the following lines.

If Mitsubishi HC Capital UK Plc trading as Novuna Personal Finance accepts my provisional decision, it should let me know. If Mr S also accepts, I may arrange for the complaint to be closed as resolved at this stage without a final decision.

The complaint

Mr S complains Mitsubishi HC Capital Finance Plc (the "Lender") has failed to honour a claim under Section 75 of the Consumer Credit Act 1974 (the "CCA") and has participated in an unfair credit relationship with him under Section 140A of the CCA.

Mr S is represented in his complaint by a professional representative ("PR").

What happened

This complaint relates to a timeshare purchase made by Mr S from a timeshare provider (the "Supplier") on 21 May 2018 (the "Time of Sale"). The complaint previously also included a purchase Mr S made on 4 June 2017. The complaint so far as it related to that purchase was upheld by our Investigator and has now been settled between Mr S and the Lender, so it is no longer necessary for it to be included in this decision save for where necessary for the purpose of context. I've outlined some relevant details below:

- The purchase made on 21 May 2018 was of a membership in the "Signature" version of the Supplier's "Fractional Club". I will refer to it as the "Signature Club". Mr S bought a total of 3,000 points in the Signature Club (the "Purchase Agreement"). A feature of the Signature Club was that it entitled a member to use a specific luxury apartment named on their Purchase Agreement ("the Allocated Property"), in a named week of the year. Alternatively, a member could convert their week to points, which could be spent on other accommodation within the Supplier's portfolio.

  The purchase was structured in such a way that it was essentially split into two "biannual" memberships, with one membership entitling Mr S to use week 27 in the Allocated Property, or 1,500 points, every even year, and the other entitling him to use week 34 of the Allocated Property, or 1,500 points, every odd year.

  This type of timeshare was also asset-backed, meaning it included a share in the future sale proceeds of the Allocated Property, when the membership was due to end. The purchase cost £24,789, however £11,700 was assigned to Mr S's previous membership (the one purchased in 4 June 2017) as a trade-in value, leaving a balance of £13,089.

- The Supplier arranged a loan (the "Credit Agreement") with the Lender for the

£13,089 balance of the purchase price. This was repayable over 180 months at £151.18 per month.

- In March 2022, through PR, Mr S complained to the Lender, seeking to find it responsible for the Supplier having mis-sold the timeshare and associated loan. The individual mis-selling concerns raised by PR can be found in the table below, but broadly-speaking they included misrepresentations for which Mr S sought to hold the Lender liable under Section 75 of the CCA, and matters which were alleged to have rendered the credit relationship between him and the Lender unfair under Section 140A of the CCA.

The Lender rejected the complaint, which was then referred to the Financial Ombudsman Service. It was assessed by an Investigator who, having considered the information on file, upheld the complaint relating to the June 2017 purchase, but did not uphold the complaint relating to the purchase in the Signature Club.

The Lender has since settled the part of the complaint involving the June 2017 purchase and the relevant compensation has been paid.

Mr S disagreed with the Investigator's assessment in relation to the Signature Club purchase, and asked for an Ombudsman's decision – which is why it was passed to me.

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 published ombudsman decisions on very similar complaints – which can be found on the Financial Ombudsman Service's website. And with that being the case, it is not necessary to set out that context here. But I would add that the following regulatory rules/guidance are 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 3.7.3R
- CONC 4.5.3R
- CONC 4.5.2G

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 provisionally 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.

And having done that, I do not think this complaint should be upheld insofar as it relates to the Signature Club purchase in 2018, which is the only matter which is left to be decided.

However, before I explain why, I want to make it clear that my role as an Ombudsman is not to address every single point that has been made to date. Instead, it is to decide what is fair and reasonable in the circumstances of this complaint. So, if I have not commented on, or referred to, something that either party has said, that does not mean I have not considered it.

As I said earlier, I am also making no findings in this decision in relation to Mr S's previous purchase in 2017. That aspect of the complaint was upheld by our Investigator, a settlement has been paid, and the matter is no longer in dispute.

I think it's also important at this stage to outline very briefly the general grounds on which Mr S seeks redress from the Lender in relation to what are, at least in part, the *Supplier's* alleged wrongdoings as opposed to the Lender's. The grounds are that Mr S has a claim under Section 75 of the CCA, and Section 140A of the CCA.

Section 75 of the CCA gives a person who has purchased goods or services with certain kinds of credit, a right to claim against their lender in respect of any breach of contract or misrepresentation on the part of the supplier of those goods or services. This is subject to certain technical conditions being met, which I am satisfied have been met in this case.

Section 140A of the CCA operates in a more complex manner. Insofar as is relevant to Mr S's case, it means that the credit relationship between him and the Lender can be found unfair because of anything done (or not done) by, or on behalf of, the Lender.

An unfair credit relationship can also be based on the terms of a related agreement (such as the agreement to buy the timeshare) and, when combined with Section 56 of the CCA, on anything done or not done by the Supplier on the Lender's behalf before the making of the

timeshare or loan agreements. The Supplier's acts or omissions during the process of negotiations leading up to the purchase are deemed to be the Lender's responsibility.

As part of my consideration of the matter of Mr S's claim that there has been an unfair credit relationship, I've thought about, amongst other things, the commission arrangements between the Lender and the Supplier, and the disclosure of those arrangements to Mr S. I've also thought about any existing unfairness from a related credit agreement, where one exists or existed.

In the interests of efficiency and ease of reading, I have set out my findings in a table format. Where a particular finding requires further explanation or analysis, I have indicated this and provided the further explanation below the table.

Table of Summarised Findings

Section 75 - Misrepresentations	**Reason why this complaint doesn't succeed**
It was falsely represented that the product was an investment that would "considerably appreciate in value".	There's insufficient persuasive evidence this was said. If it was said, it would not be untrue to describe the product as an investment as it contained investment features. Any statements regarding future value are likely to have been statements of honest opinion in the absence of evidence to show otherwise.
It was falsely represented that there would be a considerable return on investment because the purchase involved a share in a property that would increase in value.	As per the point above, there is insufficient persuasive evidence these representations were made. If they were, there's insufficient evidence they were anything other than statements of honest opinion.
It was falsely represented that the Signature Club membership could be sold back to the Supplier or easily to third parties at a profit.	There's very little colour or context to this allegation, meaning it's difficult to conclude the Supplier represented this to be the case. Mr S would also have signed to say he understood the Supplier would not buy back the membership.[1]
It was falsely represented that Mr S would have access to "the holiday apartment" at any time all year round.	This is a vague allegation which also lacks sufficient detail, context or colour to demonstrate the Supplier made such statements.
Matters allegedly rendering the credit relationship unfair	**Reason why this complaint doesn't succeed**
Mr S was pressured into making the purchase.	There is little evidence of what specifically the Supplier said or did which meant Mr S felt he had no choice but to purchase. Mr S also did not use the cooling-off period to cancel the purchase, which I would have expected had he only purchased because he was pressured into doing so.

[1] While we do not have a copy of the specific page on which Mr S would have signed to say he understood this, this was a standard part of the Supplier's paperwork and I have no reason to believe that it was completed on this occasion.

The Lender failed to carry out the creditworthiness/affordability checks required by industry guidance or regulations.	Mr S has not provided evidence that the loan was actually unaffordable, which would need to be shown if the complaint were to succeed on this point.
The Credit Agreement was arranged by an unauthorised credit broker, or self-employed individuals without their own authorisation, meaning it was unenforceable.	It appears the entity which arranged the Credit Agreement held the correct permissions from the Financial Conduct Authority at the relevant time, so the agreement was not arranged by an unauthorised credit broker. The employment status of the individuals who dealt with Mr S is not relevant.
The Purchase Agreement contained terms which were unfair to Mr S, including terms allowing the Supplier to repossess the timeshare for minor breaches.	While there are terms within the Purchase Agreement which could be operated in an unfair way, no evidence has been provided that the terms have been operated in this way in practice, or likely will be in future, in Mr S's case.
The Supplier marketed and sold the membership as an investment in breach of Regulation 14(3) of the Timeshare Regulations.	While it's possible the Supplier marketed the product in this way, I don't think it did on this occasion, and in any event it would need to have played a material part in Mr S's decision to buy the Signature Club membership, to render the credit relationship between him and the Lender unfair. **See further details below.**

I'll now set out the expanded reasons for my decision relating to Mr S's allegation that the Supplier sold the timeshare to him in breach of Regulation 14(3) of the Timeshare Regulations, and the impact of that on the fairness of his credit relationship with the Lender.

Given what is known about the way in which the Supplier sold Fractional Club memberships, including the Signature Club, I think it's *possible* the sales representatives could have said or suggested to Mr S that Signature Club membership was an investment which could lead to a financial gain or profit, and therefore have acted in contravention of the relevant prohibition in the Timeshare Regulations. I'm not convinced that this happened in Mr S's case however or that, if it did, that the Supplier's breach was a material reason for him to go ahead with the purchase. The evidence simply isn't persuasive enough in this case, for reasons I'll explain.

There is very little evidence in this case of what happened at the Time of Sale. We have the letter of complaint from PR, which I note is identical in nearly all respects to other letters of complaint I have seen from PR on behalf of other complainants. In other words, it is generic in nature and of very little assistance in determining what may have been said at the Time of Sale and by whom, or what marketing materials Mr S may have seen.

The only other evidence we have is a witness statement said to have been completed by Mr S in August 2021. While the statement runs to three pages, most of this is a general narrative of Mr S's experiences with the Supplier, and about the Signature Club purchase he says only the following:

> *"From our understanding, the representative implied that when we upgraded to the Signature Suite, our then existing ownership would cease and that we would start with the new upgraded membership although it was not entirely clear. Again, we were subjected to a very pressurised environment so as to persuade us to upgrade, very similar to our previous experience."*

Mr S says nothing about the Supplier having said or implied to him that the Signature Club membership was an investment, nor does he give any indication as to this having been something that motivated his purchase on that occasion.

PR says that the words “very similar to our previous experience” should be taken to mean that the Supplier sold or marketed the Signature Club membership to Mr S in exactly the same way as he had described for his 2017 purchase. However, I think that is too strained an interpretation of Mr S's words. While it is correct that Mr S described the Supplier as having discussed with him the possibility of the 2017 purchase being an investment (and this contributed to his complaint about that purchase being successful), to me the words relied on by PR appear to refer to the rest of Mr S’s sentence, in which he describes the Supplier putting him under pressure to purchase. I think that is the most reasonable interpretation of what he has said.

In light of this, I don’t recognise an allegation from Mr S in his testimony, that the Signature Club membership was marketed or sold to him as an investment by the Supplier. And indeed, the facts of the purchase – in my view – point to a significant enhancement in Mr S’s holiday rights as compared to his previous membership, as being a more likely motivator. Previously, Mr S had had only 900 points, with no right to stay at any particular accommodation. With his upgrade to the Signature Club, Mr S could stay in a specific luxury apartment during a week in peak season (July or August depending on the year) or choose to use 1,500 points in exchange for other accommodation in the Supplier’s portfolio. This was a significant upgrade over the previous membership.

Having considered the limited available evidence, I’m unable to reach a conclusion that the Supplier sold or marketed the Signature Club to Mr S as an investment in breach of the Timeshare Regulations, and it follows that I’m also unable to reach a conclusion that Mr S’s purchasing decision was materially affected by such a breach (given I’ve not been able to conclude one occurred).

Conclusion

In conclusion, given the facts and circumstances of this complaint, I do not think that the Lender acted unfairly or unreasonably when it dealt with Mr S’s Section 75 claim, and I am not persuaded that the Lender was party to a credit relationship with him under the Credit Agreement that was unfair to him for the purposes of Section 140A of the CCA. And having taken everything into account, I see no other reason why it would be fair or reasonable to direct the Lender to compensate him on top of the amounts already paid in relation to his upheld complaint concerning his 2017 purchase.

My provisional decision

For the reasons explained above, I am not minded to uphold Mr S’s complaint in relation to the 2018 purchase.

It is my understanding that the relevant settlement has been paid in relation to the 2017 purchase. However, if that has not been paid, then for the avoidance of doubt, the Lender must do this.

Will Culley
Ombudsman