

## **Complaint**

Ms G complains that Moneybarn No.1 Limited (“Moneybarn”) failed to act fairly and reasonably towards her when entering into a conditional sale agreement with her.

She’s said that Moneybarn failed to disclose the commission it paid to the motor dealer that introduced her to Moneybarn and that this created an unfair relationship because of the impact this had on the interest she had to pay.

Ms G has used a representative to make her complaint. For ease of reference, I’ll refer to Ms G throughout this final decision.

## **Background**

Ms G has also complained that Moneybarn irresponsibly entered into the conditional sale agreement with her as proportionate checks would have shown that the agreement was unaffordable for her. We’ve already separately notified Ms G why we’re not looking at her affordability complaint. Therefore, this decision is only looking at the commission aspect of her complaint.

In April 2015, Ms G sought finance in order to acquire a used car. The purchase price of the car was £5,990.00. Ms G didn’t pay a deposit and entered into a conditional sale agreement with Moneybarn for the whole amount.

The agreement had a term of 60 months and had interest charges of £5,108.49. This meant that the total amount to be repaid of £11,098.49 was due to be repaid in 59 monthly instalments of £188.11.

Ms G’s complaint was considered by one of our investigators who thought that Moneybarn hadn’t unfairly paid Ms G’s motor dealer commission for introducing her business. So he didn’t recommend that Ms G’s commission complaint should be upheld.

Ms G disagreed with our investigator and the complaint was passed to an ombudsman for a final decision.

## **My findings**

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Having carefully considered everything, I’ve decided not to uphold Ms G’s complaint. I’ll explain why in a little more detail.

In the joined cases of *Hopcraft, Johnson & Wrench*<sup>1</sup>, the Supreme Court considered how the law applies to motor finance commission related claims.

Broadly speaking, the Supreme Court concluded that the relationship between a motor finance lender and a consumer could sometimes be unfair to the consumer (under S140 CCA) in circumstances where neither the car dealer nor the lender disclosed that:

- there was a discretionary commission arrangement (“DCA”) – an arrangement where the commission paid was linked to the loan interest rate and the broker/motor dealer had the discretion to set a higher interest rate to receive more commission.
- the car dealer would receive a high commission relative to the cost of credit or amount borrowed.
- the car dealer was required to select the lender in preference to other lenders the car dealer could offer. This is sometimes referred to as a commercial tie or a right of first refusal.

In this case, Moneybarn has provided evidence to show that it paid Ms G’s motor dealer a total commission of £260. The agreement that Moneybarn had with Ms G’s motor dealer was that £260 would be paid for each customer introduced that went on to take out a conditional sale agreement for the amount Ms G did.

I know that Ms G has said that she wasn’t told about this commission and that she has referred to a number of instances of Moneybarn breaching its obligations. In effect, Ms G’s complaint is essentially that the undisclosed commission payment of £260 that Moneybarn paid to her motor dealer, resulted in the lending relationship between Moneybarn and her being unfair to her under Section 140 of The Consumer Credit Act 1974 (“S140 CCA”).

While I’ve not been provided with sufficient evidence to be persuaded the existence of commission, which in this case was £260, was disclosed to Ms G, I nonetheless consider it is unlikely – and certainly less likely than not – that a court would find that the commission rendered the lending relationship between Moneybarn and Ms G unfair to Ms G under S140 CCA. And I am not persuaded that Moneybarn failed to act fairly and reasonably in all the circumstances of this matter.

I consider this to be the case because:

- the commission of £260 did not involve a DCA. So the motor dealer did not have discretion to set Ms G’s interest rate.
- I think it less likely than not that a court would consider the £260 commission payment to be high when compared to the amount Ms G borrowed, or the cost of the agreement Ms G entered into. I think it unlikely that this commission of £260 would have been a major consideration in Ms G’s mind, had it been disclosed to her at the time of entering into the conditional sale agreement, when the commission payment represented less than 4.5% of the amount she borrowed and around 5% of the total cost of the credit.
- I think it less likely than not that a court would consider that a commercial tie existed between Ms G’s motor dealer and Moneybarn. In reaching this view, I have reviewed a range of contracts and agreements that Moneybarn had with various brokers over several years. I have seen nothing in any of these agreements indicating that

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<sup>1</sup> *Hopcraft and another (Respondents) v Close Brothers Limited (Appellant); Johnson (Respondent) v FirstRand Bank Limited (London Branch) t/a MotoNovo Finance (Appellant); Wrench (Respondent) v FirstRand Bank Limited (London Branch) t/a MotoNovo Finance (Appellant)* [2025] UKSC 33

Moneybarn had contractual ties with any of the motor dealers that it worked with. I consider this to be consistent with Moneybarn's position within the market as a lender serving customers that typically find it difficult to obtain credit from more mainstream lenders and have less choice as a result and the public explanation its Chief Executive Officer made to the stock market about it not operating commercial ties. In this context, I've not seen anything to support an argument that a commercial tie existed between Moneybarn and the motor dealer.

I've noted what Ms G has said about not being able to easily access credit elsewhere and the cost of the credit on this agreement being high. However, Ms G has said she didn't have many other options, the cost of the credit was set out and I've not seen that the finance was unaffordable for her.

In these circumstances, it's unclear to me how or why knowing about the commission would have seen it become a major consideration in Ms G's mind, or led to her reaching a different conclusion on entering into this agreement in the way that she now seeks to argue. This is particularly bearing in mind what I've already said about a DCA not being involved in this case and therefore there was no clear and direct link between the commission and the interest that Ms G agreed to pay as a result of choosing to enter into this agreement.

Overall and having carefully considered everything, I've not been persuaded that the commission Moneybarn paid to the motor dealer that introduced Ms G's business means that it failed to act fairly and reasonably towards her. And I've not been persuaded to uphold Ms G's complaint. I appreciate that this will be disappointing for Ms G. But I hope she'll understand the reasons for my decision and at least consider that her concerns have been listened to.

### **My final decision**

My final decision is that I'm not upholding Ms G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 18 May 2026.

Jeshen Narayanan  
**Ombudsman**