

Complaint

Mrs M complain that Advantage Finance Limited (“Advantage Finance”) failed to act fairly and reasonably towards her when entering into a hire purchase agreement with her.

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

Background

In November 2014, Mrs M sought finance in order to acquire a used car. The purchase price of the car was £14,000.00. Mrs M paid a deposit of £2,000.00 and entered into a hire purchase agreement with Advantage Finance for the remaining £12,000.00.

The agreement had a term of 48 months and had interest charges of £5,900.44. This meant that the balance to be repaid of £17,900.44, which does not include Mrs M’s deposit, was due to be repaid in 47 monthly instalments of £369.28 followed by a final repayment of £544.28.

Mrs M’s complaint was considered by one of our investigators who thought that Advantage Finance hadn’t unfairly paid Mrs M’s credit broker commission for introducing her business. So he didn’t recommend that Mrs M’s commission complaint should be upheld.

Mrs M 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 Mrs M’s complaint. I’ll explain why in a little more detail.

In the joined cases of *Hopcraft, Johnson & Wrench*¹, 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 (Section 140 of The Consumer Credit Act 1974 (“S140 CCA”)) in circumstances where neither the credit broker nor the lender disclosed that:

¹ *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

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

In this case, Advantage Finance has provided evidence to show that it paid Mrs M’s credit broker a total commission of £425. The agreement that Advantage Finance had with Mrs M’s credit broker was that £425 would be paid for each customer introduced that went on to take out a hire purchase agreement.

I know that Mrs M has said that she wasn’t told about this commission and that she has referred to a number of instances of Advantage Finance breaching its obligations. In effect, Mrs M’s complaint is essentially that the undisclosed commission payment of £425 that Advantage Finance paid to her credit broker, resulted in the lending relationship between Advantage Finance and her being unfair to her under S140 CCA.

While I’ve not been provided with sufficient evidence to be persuaded the existence of commission, which in this case was £425, was disclosed to Mrs M, 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 Advantage Finance and Mrs M unfair to Mrs M under S140 CCA. And I am not persuaded that Advantage Finance failed to act fairly and reasonably in all the circumstances of this matter.

I consider this to be the case because:

- the commission of £425 did not involve a DCA. So the credit broker did not have discretion to set Mrs M’s interest rate.
- I think it less likely than not that a court would consider the £425 commission payment to be high when compared to the amount Mrs M borrowed, or the cost of the agreement Mrs M entered into. I think it unlikely that this commission of £425 would have been a major consideration in Mrs M’s mind, had it been disclosed to her at the time of entering into the hire purchase agreement, when the commission payment represented around 3.5% of the amount she borrowed and around 7% 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 Mrs M’s credit broker and Advantage Finance. In reaching this view, I have reviewed a range of contracts and agreements that Advantage Finance had with various brokers over several years. I have seen nothing in any of these agreements indicating that Advantage Finance had contractual ties with any of the credit brokers that it worked with. I consider this to be consistent with Advantage Finance’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 it has made about it not operating commercial ties. In this context, I’ve not seen anything to support an argument that a commercial tie existed between Advantage Finance and the credit broker.

Overall and having carefully considered everything, I've not been persuaded that the commission Advantage Finance paid to the credit broker that introduced Mrs M's business means that it failed to act fairly and reasonably towards her. And I've not been persuaded to uphold Mrs M's complaint. I appreciate that this will be disappointing for Mrs M. 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 Mrs M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 30 April 2026.

Jeshen Narayanan
Ombudsman