

complaint

Miss D complains about the service she received from Mercedes Benz Financial Services UK Limited (MBFS) when she wanted to terminate a hire purchase agreement. She says it did not afford her rights which she has under the Consumer Credit Act 1974 (CCA).

background

In May 2016, due to a change in her financial situation, Miss D decided to terminate her hire purchase agreement with MBFS. She says she sent numerous emails for approximately five weeks making this request – but received no response other than an email which asked her to sign some further paperwork. She says she felt intimidated by being ignored and that MBFS were using bullying tactics in order to make her sign further terms and conditions.

When contact was finally made and the process set into motions, Miss D was told that there were additional costs outstanding as a result of excess mileage, damage to the vehicle and the non-return of the vehicle registration document.

MBFS then seem to have conceded the damage claim and the document claim but told Miss D that the excess mileage fee was still outstanding. Having considered her complaint about how her request to terminate had been dealt with however, it said she had received poor service and for this, it offered to waive one months' worth of repayments, £225 for the distress caused and £52.16 to cover the additional insurance which Miss D had to pay.

Miss D accepted this outcome in relation to the customer service aspect but complained that the demand for excess mileage was in breach of her rights under the CCA – and this is the complaint which she brought to this service.

Our adjudicator looked into this particular aspect for Miss D but did not think she could ask MBFS to do anymore. She reminded Miss D of the terms in the hire purchase agreement which was signed in 2013. The excess mileage clause was specifically pointed out.

But Miss D disagreed. She submitted that the excess mileage could not be charged even if the term existed in the original agreement.

The matter was then passed to me 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.

If I can first of all deal with the initial matter of the service which Miss D received following her request to terminate the agreement, I think it is clear from the actions of MBFS that they accept they could have handled this process better. I have read Miss D's account of how she had to constantly chase in order to receive a response and I don't think MBFS treated her fairly. I also note that the initial itemised demand for payment has since somewhat decreased.

I have then considered the redress offered by MBFS – and remind myself that this has been accepted by Miss D. But I would like to reassure her that I think the offer was a fair and reasonable one and one which I would not have increased upon.

Turning then to the additional charge for excess mileage, which Miss D submits cannot be claimed even if it were to appear in the original agreement. It is unclear what Miss D relies upon when she makes this submission – but she appears to rely upon this assertion, as far as I can understand, to suggest that her original agreement contained contradictory terms which render them void under the CCA. She says MBFS is attempting to deny her the protection which she is afforded under this legislation.

But I have to tell Miss D that I do not agree with either her submissions or her assertions and I remind myself that there is no dispute that she signed to accept these very terms in 2013.

The hire purchase agreement specifically refers to the additional charge of excess mileage and I have seen nothing to suggest that MBFS has acted unfairly in asking that Miss D pays this.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 7 March 2017.

Shazia Ahmed
ombudsman