

complaint

Mr A complains that a car he has on finance with Moneybarn No. 1 Limited ("Moneybarn") was faulty or developing a fault when it was supplied to him.

background

Mr A took receipt of a used car in June 2017 the car had completed 23,000 miles when he took receipt of it and was five years old. Mr A financed the deal through a conditional sale agreement with Moneybarn.

In March 2018 Mr A was unable to start the car. He replaced the starter motor but that didn't resolve the issue and a garage subsequently identified a faulty Electronic Control Unit (ECU) as the cause. This was replaced and the car worked satisfactorily but in late July the car failed again and Mr A decided he'd had enough; so he voluntarily terminated his agreement with Moneybarn. The car was sold at auction on 3 September 2018.

Mr A complained to Moneybarn but they explained that they were only responsible for faults that were there at the start of the finance agreement or were developing at that point. They didn't think there was any evidence that the fault with the ECU was developing at the point of supply and noted that Mr A had managed to cover almost 10,000 miles in the car and that the MOT that had been completed didn't raise any related issues. So they thought it was most likely the fault had developed at some point after the inception of the deal.

But Mr A disagreed. He said the ECU should last the car's lifetime and the fault was clearly developing at the point of supply and he referred his complaint to this service. Our investigator took a look at the evidence but didn't think there was enough to uphold Mr A's complaint. He explained that, as the car had been sold, it was not possible to arrange an independent inspection to get an expert's view on the origin of the problem. So he didn't think he had enough information to suggest the fault was there from the beginning and that Moneybarn should therefore take some further action.

But Mr A disagreed and he asked for a final decision by an ombudsman.

my findings

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

I don't think there's enough evidence to suggest there was a problem at the point of supply. I know that will disappoint Mr A so please let me explain why.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr A acquired his car under a conditional sale agreement. The relevant law says that the car should have been of satisfactory quality when supplied. If it wasn't then Moneybarn, as the

provider of credit, are responsible. And if I thought the car was faulty when supplied, I'd think it fair and reasonable to ask them to put this right.

But their responsibility for the car is not unlimited. They're not responsible for problems that occur after the inception of the finance deal.

Mr A didn't report any problems until he'd had the car for nine months and I think it's reasonable to suggest that, as so much time had elapsed, he would need to demonstrate the fault had been there or developing from the start. It may well be, as Mr A says, that ECU's are designed to last for the car's lifetime but that's not what we have to decide here. There's no doubt that the ECU failed but the question is whether it was failing at the point of supply or whether this failure happened later.

I think it's most likely the ECU started to go wrong at some point after Mr A received it. I say that because he completed a reasonable, apparently trouble free, mileage before the failure and I think if problems were present he would be more likely to have noticed a deterioration in performance.

I also note that the MOT didn't highlight any related abnormalities and whilst I accept that an ECU may be designed for life, I think it's reasonable to suggest that, if one did fail, it could happen at any time in the vehicles life i.e. through moisture ingress or corrosion.

So in these circumstances I don't think Moneybarn need to take any further action.

my final decision

For the reasons I've given above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 14 April 2019.

Phil McMahon
ombudsman