

The complaint

Mr S is unhappy that a car supplied to him under a hire agreement with Tesla Financial Services Limited doesn't have all the features he is paying for.

Before I address Mr S's complaint, I think it would be useful for me to explain what I'm able to consider. The car manufacturer and the finance company are both known by the same group name – Tesla – and any car is ordered directly from the manufacturer. However, the manufacturer and finance company are separate companies and only the finance company is regulated by the Financial Conduct Authority, so falls under our jurisdiction to consider. As such, when dealing with this matter, I'm considering the actions of the finance company, not the manufacturer. And, when referring to 'Tesla', I'm only referring to the finance company, not the manufacturer.

What happened

In April 2023, Mr S ordered a new car direct from the manufacturer, which was to be provided to him under a hire agreement through Tesla. As part of this order, Mr S selected the Enhanced Autopilot (EAP) feature as an optional extra. This feature included the following functions:

- Auto Lane Change
- Navigate on Autopilot
- Autopark
- Summon
- Smart Summon

The manufacturer has confirmed that some of the EAP functions relied on ultrasonic sensors. However, on the model car selected by Mr S, the ultrasonic sensors had been replaced by a camera-based autopilot system. While this enhanced certain other features, it meant that the Autopark, Summon, and Smart Summon features of the EAP were not available at the point the car was supplied to Mr S. But the manufacturer said that these functions will become available and, once they are, the software on the car supplied to Mr S will update and allow these functions to be used.

As part of the purchase process, Mr S was advised of this by the manufacturer, and he accepted these alterations and the impact it would have on the functionality of the car being supplied.

The car was supplied to Mr S in May 2023 through a hire agreement with Tesla. He paid an advance payment of £3,500 and the agreement was for 49 months; with an initial rental payment of £233.05, 47 rental payments of £699.15, and a final rental payment of £466.10.

In December 2023, Mr S complained that the manufacturer software update that would allow the use of the missing EAP functions was not yet available, and he felt he was paying for something (the EAP) that he hadn't got. However, his complaint wasn't upheld because he had been made aware of the limited features of the EAP at the point of order. Unhappy with this response, Mr S brought his complaint to us for investigation.

Our investigator said that Mr S had been made aware of what functions would be available on the car at the point of order, and the car was supplied with those functions. The investigator also said that, once the additional functions were available, they would be installed in the car supplied to Mr S. So, they didn't think Tesla had done anything wrong.

Mr S didn't agree with the investigator's opinion. He felt he was being charged for something that wasn't being provided, and was unlikely to ever be provided, to him. He also felt that, as he was able to pay the manufacturer for increased functionality i.e., the 0-60 speed of the car, then the EAP could be removed. So, he asked that this matter be passed to an ombudsman to decide.

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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr S was supplied with a car under a hire agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

When Mr S ordered the car, he asked for, and paid extra for, the EAP feature. It's not disputed that the car has been provided with EAP. However, the EAP doesn't contain all the functions Mr S believed would be available for the reasons given above. While I appreciate his frustration about this, this doesn't mean that Mr S wasn't provided with what he asked for. I say this because the car does have EAP, and at the point of ordering Mr S was made aware what functions would be available, choosing to go ahead with this anyway.

From a finance company perspective, I've considered whether there has been a mis-sale. For a mis-sale to be present there must first be a false statement of fact which, for the reasons given, I'm satisfied there hasn't been. It therefore follows there is no mis-sale.

What's more, the manufacturer has advised Mr S that, as soon as the additional functionality becomes available, it will be installed in the car. Again, I appreciate Mr S's frustration that the manufacturer is unable to provide a date for this, but crucially they have never given a date for this enhanced functionality. As such, if and when this will be available hasn't been misrepresented either.

Finally, Mr S has asked if the EAP can be removed from the car, and he believes this can be done. While this may be the case, as I've said above, the manufacturer and the finance company are separate companies. As such, even if the manufacturer were able to remove the EAP, this would have no impact on the finance agreement itself as the car was originally supplied with the functionality Mr S paid for. So, and while I appreciate this will come as a disappointment to Mr S, I'm satisfied that Tesla have acted reasonably here, and I won't be asking them to do anything more.

My final decision

For the reasons explained, I don't uphold Mr S's complaint about Tesla Financial Services Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 13 January 2025.

Andrew Burford
Ombudsman