Rejection notice: request for refund (29 June 2023)

Email text reproduced verbatim from the original messages; quoted history, signatures and personal details (addresses, phone numbers, staff names other than the respondent's representative named in the decision, rego) removed.

Date	Thursday 29 June 2023, 1:51 pm
From	Ellen Gallo (written by Nick Pratley)
To	Bernard De Riviere, Guest experience manager, Brian Hilton Motor Group (cc Nick Pratley)
Subject	Request for Refund due to Persistent Major Failures with Kia Sportage [rego] - Urgent Attention Required

Hi Bernard,

I am writing to you regarding the ongoing issues with my Kia Sportage (MY19), which was purchased from you in 2018. Since August 2020, the vehicle has exhibited various electrical system issues that have not been resolved despite repeated attempts and ongoing communication with your service team. Under Australian Consumer Law, I have a right to expect a product of acceptable quality. Unfortunately, this has not been the case with the vehicle.

Despite the numerous visits to your service department, numerous emails, and telephone conversations, the issues remain unresolved, and the proposed resolution times have been repeatedly extended without satisfactory explanation or remedy.

The timeline of these issues is as follows:

August 2020: The car was brought in due to non-functioning parking sensors and audio unit issues. The parking sensors were replaced, and internal trim was damaged during this process. Audio unit was placed on back order.

September 2020: The audio unit was scheduled to be replaced, but only a blown fuse was replaced. The audio unit was left unchanged, and the issues persisted.

February 2021: Further parking sensors were replaced due to ongoing issues from August 2020. The front bumper was damaged during this repair, and the wiring loom was replaced for the sensors.

November 2021 - February 2022: The audio unit issue remained unresolved and was reported to your service department multiple times.

March - September 2022: Despite multiple follow-ups, there was a lack of response and updates on the status of the back-ordered audio unit.

December 2022: The audio unit was finally replaced, however this didn't fix the issue as the problem was still happening as soon as I picked up the car (even though it had apparently been tested and confirmed working), I called the service department the following day to advise that the issue wasn't fixed

January - March 2023: After further follow-ups and a period of testing, it was determined that the external amplifier was faulty and needed to be replaced. The part was ordered with an advised delivery time of six weeks.

May 2023: The amplifier was replaced but again didn't fix the issue – the problem was still happening as soon as I turned the car on (again, it had apparently been tested and confirmed working). I went straight back in to the service department to advise that the issue hadn't been resolved. One of the technicians came for a drive to see what was going on and then the service department advised that they'd need to

book it in for further testing once again.

June 2023: Further testing was conducted and it was advised that the issue is with the wiring loom, which needs to be replaced. A temporary fix was put in place, but the part for the permanent fix is custom made and will take 6 - 12 weeks to arrive.

I have been promised multiple times that the issue will be fixed (with the audio unit replacement, the external amp replacement), yet nothing has worked, so I have serious doubts that the wiring loom replacement will fix the issue.

Furthermore, during at least one of the recent services, we reported the starter motor struggling to start the car intermittently – this was not noted on any of the job sheets and has been dismissed as an issue.

Despite providing ample opportunities and substantial time to address and resolve these problems, the vehicle is still not in the condition that was originally promised at the point of purchase.

Under the Australian Consumer Law, as a consumer, I have the right to ask for a repair, replacement, or refund when the product, in this case, the MY19 Kia Sportage, has multiple or major failures. According to the guidelines set out by the ACCC, a major failure occurs when a reasonable consumer would not have bought the product if they had known about the problem, it's significantly different from the sample or description, it's substantially unfit for its common purpose and can't easily be fixed within a reasonable time, or it’s unsafe. The ongoing problems with our vehicle, including a failing audio unit, amplifier, parking sensors, wiring loom, and a potentially problematic starter motor, appear to constitute a major failure. Despite our consistent reports of these issues, they have not been resolved within a reasonable timeframe, thus affecting the vehicle's functionality and our use of it. I understand that in such situations, I, as a consumer, am entitled to my choice of a remedy, which in this case, I am seeking a full refund for the car.

In light of the ongoing issues I've experienced with my Kia Sportage and the failure to resolve them within a reasonable time, despite my consistent reporting, I believe that this case falls under a major failure as per the Australian Consumer Law. As such, I feel that a refund of the entire purchase amount would be the appropriate resolution at this stage. I kindly request that you review my claim at your earliest convenience and provide a response outlining your course of action. I am hopeful that Brian Hilton values its customers' satisfaction and will be responsive to this serious matter. Should you need any further information or documentation to expedite this process, please don't hesitate to contact me. Thank you for your immediate attention to this matter.

Kind regards,

Ellen Gallo - [phone redacted]