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Tesla Motors Ltd
109 Devonshire Road
London
W4 2AN

21st February 2023

LETTER BEFORE ACTION

Re: Model 3 Performance, Reg: [REDACTED], VIN: [REDACTED]

Dear Sirs,

I write in accordance with the Civil Procedure Rules for pre-action conduct. Please note that I intend to start a claim in the county court unless this matter is resolved to my satisfaction.

The basis for this letter is the Consumer Rights Act 2015 ("CRA"), section 11(1) which states that:

"Every contract to supply goods by description is to be treated as including a term that the goods will match the description."

You are materially in breach of the contract for failing to provide full self-driving ("FSD") as described on your website, and I am seeking you to remedy this breach of contract. At the time the contract was formed your website described the FSD feature of the Model 3 as follows:

1. *"Coming later this year:
Recognise and respond to traffic lights and stop signs.
Automatic driving on city streets."*
2. *"Autopilot enables your car to steer, accelerate and brake automatically within its lane. Full Self-Driving Capability introduces additional features and improves existing functionality to make your car more capable over time"*
3. *"Every new Model 3 comes standard with advanced hardware capable of providing Autopilot features today, and full self-driving capabilities in the future—through software updates designed to improve functionality over time"*
4. *"All Tesla vehicles have the hardware needed in the future for full self-driving in almost all circumstances"*
5. Next to (3) above, there was a video displayed on your website purporting to demonstrate FSD capabilities in development on a route to the Tesla facility in California.

I paid an additional £5,800 for the FSD feature based on the description made by you of the goods at the time.

It is now clear that I was materially misled by the description of the goods on your website. To go through specifics of each:

1. This claim was for two features to be delivered by the end of 2019. The reality is that the first feature was delivered in software 2020.36.10, released on 11th September 2020. The second feature, that is far more sophisticated and useful to me has not been delivered over 3 years later.
2. This statement led me to believe that the end of 2019 deadline mentioned in (1) would just be the start of additional capabilities and features.
3. Again, this statement led me to believe that FSD would be attainable by the car.
4. The key point here is that your description of the goods was that they would be capable of FSD in "almost all circumstances". From my experience, and your subsequent changes to hardware, this is materially inaccurate. Specifically:
 - a. The rear-facing cameras on the boot lid and side repeaters get dirty on every journey in the winter on British roads. There is no capability for them to clean themselves, and their positioning makes them prone to build up of dirt. I experience this frequently because the automatic lane-changing functionality is disabled.
 - b. The front cameras get fogged up in cold weather. With HW4, Tesla are introducing a ventilation fan to the camera housing.
 - c. The B pillar cameras get fogged up in cold weather. With HW4, Tesla are introducing heaters to prevent this.
5. The video posted on your website, in the context of (2) and (3) led me to believe that the Tesla capabilities were far more advanced than was really the case. It has now transpired in court testimony given by Tesla's director of Autopilot software, Ashok Elluswamy (reported by Reuters on 17/01/2023) that Tesla faked FSD videos by using HD maps.

My remedies for your breach of contract under CRA s19 (b) and (c) include the right to a repair or replacement, the right to a price reduction, and the final right to reject. I note that these rights do not prevent me seeking other remedies, including damages, specific performance, etc.

I do not believe you can economically repair/replace the goods such that the breach of contract is remedied. Even if you could remedy the breach, there is the matter of the length of time (over 3 years) that has passed, and I have missed out on the utility of the FSD feature described on your website. Therefore, I think the most appropriate path forward is a price adjustment for the feature I was misled to purchase of £5,800.

I am allowing 28 days before I issue proceedings, which means I need a response by 22nd March 2023.

Yours faithfully,

Ed Butler