

## **Before the Arbiter for Financial Services**

**Case ASF 015/2023**

**RS**

**(the Complainant or the Merchant)**

**Vs**

**Truevo Payments Limited**

**Company Reg. No. C 62721 (Malta)**

**(the Service Provider or Truevo)**

**Session of 17<sup>th</sup> May 2023**

### **The Arbiter**

Having considered the Complaint and all submissions by the parties hereby proceeds to issue his decision.

### **Background**

The Complaint concerns termination by Truevo of the Acquiring Services Agreement to process the card payments from the Merchant. This Agreement was entered into on 24 October 2022 and was terminated on 16 December 2022.

The Complainant maintains that the Service Provider did not provide any explanation for such termination, has not responded to its complaint and that by putting the Complainant's references on Card Scheme database would prejudice the interest of the Merchant. As a remedy, the Complainant seeks that the Arbiter prohibits such inclusion of the Merchant in the Card Schemes.<sup>1</sup>

---

<sup>1</sup> Folio 3

The Service Provider denies having received the Complaint at the address indicated in the Acquiring Service Agreement and maintains that the complaints of the Complainant are of a contractual nature and should have been addressed before a court or a tribunal of a civil nature. Furthermore, the Office of the Arbiter has no competence to hear this case in virtue of the provisions of Article 11(a) of the Law (Cap. 555) as, according to the Services Provider, the Merchant is not an Eligible Customer.

This apart, the Arbiter needs to consider whether the Merchant is an Eligible Customer on the basis of the fact that the Merchant has declared in the Complaint and again during the hearing of 16<sup>th</sup> May 2023<sup>2</sup> that their annual turnover is six million euros.

The Act defines an 'eligible customer' as a ***“customer who is a consumer of a financial service provider, or to whom the financial service provider has offered to provide a financial service ...”***<sup>3</sup>.

In turn, a customer is defined as ***“a natural person, including his successors in title, or a micro enterprise”***.<sup>4</sup>

Micro enterprise is defined as ***“an enterprise which employs fewer than 10 persons and whose annual turnover and, or annual balance sheet does not exceed two million euro (Euro 2,000,000)”***.<sup>5</sup>

## **Consideration**

Before entering into the merits of the case, the Arbiter has to decide whether he has competence to hear the case, i.e., whether the Complainant is a Customer in terms of the Act and, if in the affirmative, whether the Complainant is an Eligible Customer in terms of the Act.

---

<sup>2</sup> Folio 109

<sup>3</sup> Art. 2 of the Act, Cap. 555

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

## **Decision**

The Arbiter decides that given that the Merchant has unequivocally declared that it has an annual turnover of six million euro, which exceeds by a stretch the compulsory threshold of two million euro set in the Act for defining a Micro Enterprise, the Complainant cannot be a Customer in terms of the Act and consequently cannot be an Eligible Customer in terms of the Act.

**As a result, the Arbiter concludes that in terms of Art. 11 (1)(a) of the Act, the Arbiter has no competence to hear this Complaint. This without prejudice to the Complainant's right to pursue their case in front of any other appropriate court or tribunal.**

**Each party will bear its own costs.**

**Alfred Mifsud**

**Arbiter for Financial Services**