

Before the Arbiter for Financial Services

Case ASF 044/2025

PQ

(the 'Complainant')

vs

Payhound Limited

Reg. No. C 86493

('PHL' or 'Service Provider')

Sitting of 30 June 2025

The Arbiter,

Having considered in its entirety, the Complaint filed on 03 March 2025, including the attachments filed by the Complainant,¹

The Complaint

Where, in summary, the Complainant claimed Service Provider have been disregarding his request to trace a payment for €273.65 which he sent in Ethereum digital asset from his Binance account to his account with Bets 10 (a gaming brand licensed in Malta by the Malta Gaming Authority).

He admits that in error, rather than using the Ethereum main net, he used the Binance Smart Chain network.

He explains that when effecting the transfer from the website of Bets10, he was notified by a banner showing that PHL was the payment intermediary for

¹ Page (P.) 1 - 8 and attachments p. 9 - 32

Bets10² and that the tokens will be lost if he sends tokens other than ETH tokens over the Ethereum blockchain. However, he argues that, in fact, he did send ETH tokens but on a different blockchain channel. The warning did not say they would be lost if not sent on Ethereum channel.

Complainant argued that Binance have confirmed that the transfer of ETH tokens was properly delivered to the TxID address and only PHL can now help him to recover the assets³ once Bets10 never received them.

He complained, however, that Service Provider is unwilling to trace the funds, at first arguing that he was not their customer and lately stating that his funds are totally lost.

By way of resolution, Complainant seeks a refund of €273.65 in Ethereum tokens to his wallet with Bets10.

The reply of the Service Provider⁴

In their reply of 15 April 2025, Service Provider explain that:

1. *'The Company would like to clarify that (the Complainant) is not considered a customer of Payhound Limited. This is also in line with our response to the Complainant provided on the 5th of February 2025 (kindly refer to page 011 of the document provided by the Arbiter) where we have guided (the Complainant) to reach out to the provider of the website 'Bets10'. We understand that 'Bets10' is to be considered as (the Complainant's) direct financial services provider due to him having an account registered with them. He has also accepted their terms and conditions as a consumer of their gaming services.*
2. As (the Complainant) is not a customer of Payhound, we do not have any direct relationship with this individual, and he is not listed in our customer list. In order for a corporate company to open an account with Payhound, it has to undergo a strict onboarding process whereby the company's Directors, Shareholders and other corporate documents are verified by our Compliance Team before it is allowed to open an account with us. The

² P. 18

³ P. 16

⁴ P. 38 – 39

Company does not accept retail consumers as direct customers. As (the Complainant) utilised a blockchain mechanism that the Company does not support, Payhound has no means of correlating the requested refund with our internal systems and such a transaction has not been subjected to any of our compliance checks.

- 3. We understand that (the Complainant) has not followed the instructions clearly presented in the deposit page on the 'Bets10' website (kindly refer to page 018 of the document provided by the Arbiter). The deposit page states that "Warning: Only send ETH tokens to this address over the Ethereum blockchain. Sending other cryptocurrencies will result in permanent loss." This warning was prominently displayed to (the Complainant). We understand that (the Complainant) was sufficiently warned on the consequences of utilizing an unsupported Blockchain.*
- 4. Payhound Limited have been contacted by its direct customer where our Support Team promptly confirmed that the BSC Network is unsupported by Payhound Limited. No further questions were posed by the direct customer of Payhound Limited.*
- 5. We understand that (the Complainant) has reached to his provider which is the direct customer of Payhound Limited. His provider has informed him that his deposit was lost due to the BSC Network being unsupported by Payhound Limited (kindly refer to page 027 of the document provided by the Arbiter). We understand that as (the Complainant's) relationship is with the betting website 'Bets10' managed by Realm Entertainment Limited and under Maltese Consumer Law, as he is considered as a consumer of Realm Entertainment Limited, the requirements under the Maltese Gaming Act legal framework should be primarily followed. We understand that (the Complainant) may not fully be aware of how the local legal framework is set out and we have endeavoured to guide him in our response.'*

During the hearing of 26 May 2025,⁵ both parties generally reiterated their position as explained in the complaint and the reply.

The Arbiter explained that given the small amount involved in this complaint, it is impractical and uneconomic to hold further hearings once the position of both parties is well presented and understood so that he will tackle both the preliminary plea raised by the Service Provider (regarding Complainant not being an eligible customer in terms of CAP 555 of the Laws of Malta) as well as on the merits of the case.

Preliminary Plea

In their reply, the Service Provider argued that the Complainant is not their customer, and they never offered him any service and he never requested any service from them.

During the hearing on being cross-examined, the Complainant stated:

‘Asked to confirm that I have never signed nor accepted any terms and conditions with Payhound, I say, no, I had nothing.

Asked since I have read those terms and conditions on the website whether I recall seeing that they are exclusively for Payhound customers, I say, yes.

It is being said that, therefore, I acknowledge that Payhound do not have the obligation to reply to my query within one month. I say, yes.’⁶

...

‘The representatives of the service provider confirm that the service provider never offered the complainant any service and that the complainant never asked the service provider to provide him with a service.’⁷

Article 22(2) of Chapter 555 of the Laws of Malta (‘the Act’) stipulates that:

‘Upon receipt of a complaint, the Arbiter shall determine whether the complaint falls within his competence.’

⁵ P. 40 - 46

⁶ P. 41

⁷ P. 44

Moreover, in virtue of Article 19(1) of the Act, the Arbiter can only deal with complaints filed by **eligible customers**:

*'It shall be the primary function of the Arbiter to deal with complaints filed by **eligible customers** through the means of mediation in accordance with Article 24 and where necessary, by investigation and adjudication.'*

The Act stipulates further that:

'Without prejudice to the functions of the Arbiter under this Act, it shall be the function of the Office:

*(a) To deal with complaints filed by **eligible customer**.'⁸*

Thus, the Arbiter has to primarily decide whether the Complainant is, in fact, an **eligible customer** in terms of the Act.

Eligible customer

Article 2 of the Act defines an '*eligible customer*' as follows:

'a customer who is a consumer of a financial services provider, or to whom the financial services provider has offered to provide a financial service, or who has sought the provision of a financial service from a financial services provider.'

The Complainant has admitted that he is not a customer of the Service Provider, and he has never accepted their terms and conditions. He further agreed that he knows that from their terms and conditions the complaints procedures is only applicable to their customers.

The Arbiter however must take a wider view as the Complainant could still possibly be considered as an eligible customer if he is considered to have been offered a service or has requested a service from the Service Provider in terms of the above referred to definition.

This aspect revolves on whether the banner as per page 18, which was explained to customer at the time of making the transfer, constitutes an offer or a request for a service between the Complainant and PHL. It was explained that this

⁸ Article 11(1)(a)

banner was popped up from the website of Bets10 with the consent of the Service Provider.

Decision on Determination of eligibility

For this reason, the Arbiter cannot conclude that such banner does not in fact constitute an offer for a service on the part of PHL and, therefore, does not accept the preliminary plea that Complainant is not an eligible customer of the Service Provider.

Merits

On merits, however, the Arbiter does not share the Complainant's view that the Service Provider should be liable for his loss because the warning in the banner only explained that the tokens will be permanently lost if on the stated channel he sends tokens other than ETH.

The argument that the sending of ETH tokens on a blockchain channel other than the one indicated by the banner should not lead to permanent loss is a gratuitous assertion on the part of the Complainant as no evidence has been provided that the Service Provider can effectively recover these tokens and refund them to the Complainant without (if at all) incurring a cost disproportionate to the value of the loss.

Decision

The Arbiter, having heard the parties and seen all the documents and submissions made, proceeds to adjudicate the case as provided in Article 19(3)(b) of Chapter 555 of the Laws of Malta by reference to what, in his opinion, is fair, equitable and reasonable in the particular circumstances and substantive merits of the case.

From the evidence provided and for reasons explained above, the complaint is being dismissed as on its merit, the Complainant is making gratuitous unproven assertions.

There is no doubt that the cause of the loss complained of was an error on the part of the Complainant by sending the tokens on a different blockchain channel than what was indicated to him on the banner, and he should bear this loss

rather than expect third parties to make good for his error, possibly, involving an expense greater than the loss value.

Each party is to carry their own expenses of this case.

Alfred Mifsud

Arbiter for Financial Services

Information Note related to the Arbiter's decision

Right of Appeal

The Arbiter's Decision is legally binding on the parties, subject only to the right of an appeal regulated by article 27 of the Arbiter for Financial Services Act (Cap. 555) ('the Act') to the Court of Appeal (Inferior Jurisdiction), not later than twenty (20) days from the date of notification of the Decision or, in the event of a request for clarification or correction of the Decision requested in terms of article 26(4) of the Act, from the date of notification of such interpretation or clarification or correction as provided for under article 27(3) of the Act.

Any requests for clarification of the award or requests to correct any errors in computation or clerical or typographical or similar errors requested in terms of article 26(4) of the Act, are to be filed with the Arbiter, with a copy to the other party, within fifteen (15) days from notification of the Decision in terms of the said article.

In accordance with established practice, the Arbiter's Decision will be uploaded on the OAFS website on expiration of the period for appeal. Personal details of the Complainant(s) will be anonymised in terms of article 11(1)(f) of the Act.
