

Before the Arbiter for Financial Services

Case ASF 092/2025

KG

(‘the Complainant’)

Vs

OpenPayd Financial Services Malta Limited

(C 75580)

(‘OpenPayd’ or ‘the Service Provider’)

Sitting of 12 September 2025

The Arbiter,

Having seen **the Complaint** against OpenPayd relating to the transfer of money the Complainant made to a corporate client of the Service Provider named UAB Stronglenva UAB (trading as CrocCoin). The Complainant requested to receive back the money paid as he claimed that the said corporate client was involved in fraudulent activity with an online trading company the Complainant used for investments, which, he claimed, turned out to be a scam.

The Complaint¹

In his Complaint Form, the Complainant alleged that UAB Stronglenva UAB is a client of OpenPayd, and that Stronglenva is a fraud or has facilitated a fraud that caused the loss subject of this Complaint.

Complainant made a transfer through his account with Banca Popolare di Cortona for a value of €2,800 showing as beneficiary Stronglenva and quoting

¹ Complaint Form on Page (P.) 1 - 8 with supporting documentation on P. 9 - 65

their (V)IBAN number which was linked to OpenPayd. OpenPayd were not, however, indicated by name in the transfer order.²

He maintained that OpenPayd were negligent and superficial in their conduct and have de facto facilitated the illicit conduct of third parties causing serious harm to Complainant which should be addressed by full restitution of his loss.

Having considered in its entirety, OpenPayd's reply,³

Where OpenPayd explained and submitted the following:

*"OpenPayd had at the time of the transactions, a relationship with **UAB Stronglendra UAB (trading as 'CrocCoin')**, a company registered in Lithuania, as elaborated below, details of which have also been provided to the Complainant in our letter dated 14 October 2024.*

The Complainant is, therefore, not an eligible customer of OpenPayd and, pursuant to provisions of article 11(1)(a) and article 19(1) of the Arbitrator for Financial Services Act (CAP. 555 of the Laws of Malta) the Arbitrator is to, respectfully, deal with complaints filed by eligible customers.

Background

*We wish to make clear that OpenPayd has only ever provided its services to its former corporate client UAB Stronglendra UAB (trading as 'CrocCoin'). UAB Stronglendra UAB (trading as 'CrocCoin') is a company registered in Lithuania and operates the platform croccoin.io (the '**Merchant**').*

*To our understanding from the submission of Avv. Alessandro Spizzo, his Client, (the Complainant), may have entered into a commercial agreement with the **Merchant**, after following direction from unidentified third parties, and been provided with a cryptocurrency wallet. Please note that any onboarding would have been conducted solely by the **Merchant** and OpenPayd would have had no involvement in this and cannot comment on whether (the Complainant) was properly onboarded by the **Merchant**.*

Having said that, at the time of onboarding and for the duration of its business relationship with UAB Stronglendra UAB (trading as 'CrocCoin'), OpenPayd

² P. 36

³ P. 73 - 80

*carried out enhanced due diligence on the **Merchant** to understand its compliance processes and controls.*

We understand that the substance of the Complainant's concerns relates to OpenPayd accepting a me-to-me bank transfer from (the Complainant).

As an electronic money institution, OpenPayd services corporate entities to assist them in their own reconciliation of payments. Such a client is UAB Stronglenna UAB (trading as 'CrocCoin').

UAB Stronglenna UAB (trading as 'CrocCoin'), as a separate corporate entity may, in turn, enter into their own onward commercial relationships, which in this case would be the Complainant, (the Complainant). However, ultimately, OpenPayd has no control over any onward commercial relationships entered into between its corporate client, UAB Stronglenna UAB (trading as 'CrocCoin') and any third party/ies. (The Complainant), in this case. Ultimately, OpenPayd can only reiterate that, on its part, it has only ever serviced UAB Stronglenna UAB (trading as 'CrocCoin') and has never provided services to (the Complainant) who was purportedly directed by an unidentified third party into making the transfers.

Another point of the complaint pertains to the transactions (the Complainant) executed in favour of UAB Stronglenna UAB (trading as 'CrocCoin'). It is alleged that (the Complainant) was misled and was reportedly the victim of a fraudulent scheme. While this is undoubtedly unfortunate, the payment instructions provided to (the Complainant) by the alleged third party – and any arrangements made between (the Complainant) and such unknown individuals or organizations – are entirely beyond OpenPayd's knowledge and control. OpenPayd has no and had no involvement or connection with these constituted third-party dealings.”⁴

They raised a preliminary plea on the Arbiter's competence to hear this Complaint on the basis that Complainant was not an eligible customer as defined in CAP. 555 which regulates the operation of the Office of the Arbiter (OAFS).

On this point, they stated:

⁴ P. 74 - 75

“Eligibility of the Complaint

*The Laws of Malta (the ‘Act’) Chapter 555 provides in Article 11(1)(a) and again in Article 19(1) that the primary function of the Arbiter is to deal with complaints filed by **eligible customers**. If the Complainant does not qualify as an eligible customer of OpenPayd, then, the Arbiter is not able to adjudicate the Complaint.*

“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.”

Article 2 of the Act defines an ‘eligible customer’ as:

“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.”

(emphasis added)

The Complainant’s representative makes it clear in the Complaint submitted to OpenPayd that his Client was a victim of fraudsters, and OpenPayd is not, in any way, involved in the scam:

“[...] It should be noted that in all the transactions listed above the beneficiary coincided with the ordering party.

My Client was in fact convinced that she was transferring the money to her own account; instead, the account belonged to third parties who ultimately illegitimately appropriated the money. [...]”

Here, we would like to once more emphasize that OpenPayd does not provide a(n)(bank) account, payment or investment service to Avv. Alessandro Spizzo’s Client. (The Complainant) is not ‘a customer who is a consumer’ of OpenPayd.

OpenPayd can also confirm that it has never ‘offered to provide a financial service’ (including, for the avoidance of doubt, an account, payment or investment service) to the Complainant (nor, as OpenPayd only provides its services to corporate clients, could OpenPayd ever have provided any such

services to (the Complainant) nor has (the Complainant) 'sought the provision of a financial service from OpenPayd'.

Similarly, we would like to make exceptionally clear that the basis on which a number of the Complainant's concerns seem to be based (that OpenPayd is a bank that has accepted payments or provided [the Complainant] with a bank account), is similarly entirely incorrect.

*As there is no contractual relationship between OpenPayd and the Complainant, the Complainant cannot be regarded as an eligible complainant in terms of Article 2 of the Act. We respectfully are of the opinion that the Arbiter does not have jurisdiction to deal with the Complaint."*⁵

Hearing

At the hearing held on 03 September 2025, the Arbiter informed the parties that he will first rule on the preliminary plea raised regarding his competence before proceeding to consider the merits of the case.⁶ He invited the Complainant to defend himself from the claim raised by the Service Provider that he was not their 'eligible customer' as contemplated in the Act, Chapter 555 of the laws of Malta.

The Complainant admitted he had never had direct contact with OpenPayd, but he mentions that in the payment order showing Stronglenna as the beneficiary of the transfer, there is a tail-end reference to himself. This could be interpreted that the Complainant was, in fact, requesting a service from OpenPayd and, therefore, he falls within the legal definition of eligible customer.

Preliminary Plea

The Arbiter's competence is determined by 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. 78 - 79

⁶ P. 84 - 85

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 in Article 11(1)(a) 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.”

Thus, the Arbiter is obliged 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 makes it clear in his Complaint that he was a victim of fraudsters, and no evidence was provided that OpenPayd were in some way directly involved in the scam. The fact that they had an account relationship with the beneficiaries of the funds transferred (it is not clear what relationship such beneficiaries had with the alleged fraudsters) does not render the Complainant an eligible customer of the Service Provider.

The beneficiaries, UAB Stronglenska UAB, were clearly identified in the payment order and the tail-end reference to himself in the beneficiary panel of the payment order is more likely guidance for UAB Stronglenska UAB to allocate the funds to the account of the Complainant.

Decision on determination of eligibility

Considering the above and having reviewed the circumstances of the case in question, it is evident that there was no contractual relationship between the Service Provider and the Complainant.

In view of the above, it results that the Complainant was not ***‘a customer who is a consumer’*** of the Service Provider neither that OpenPayd ***‘has offered to provide a financial service’*** to the Complainant, nor that the Complainant ***‘has sought the provision of a financial service from OpenPayd for the purposes of the Act.’***

Decision

For reasons explained above, the Complainant cannot be deemed as an ‘eligible customer’ in terms of Article 2 of the Act. Consequently, the Arbiter does not have the competence to deal with the merits of this Complaint.

This without prejudice to the right of the Complainant to take his case to a competent court or tribunal.

It is also without prejudice to any right that the Complainant may have to file a complaint against the remitter and beneficiary of his funds at the appropriate jurisdiction for their potential failure of their payment monitoring duties under EU Directive 2015/2366, commonly referred to as PSD 2.

Considering that the case was decided on a procedural issue, each party is to bear its own costs of these proceedings.

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.