

Before the Arbiter for Financial Services

Case ASF 159/2025

TX

(“the Complainant”)

vs

OpenPayd Financial Services Malta

Limited (C 75580)

(“OpenPayd” or “the Service Provider”)

Sitting of 07 November 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 Stronglenska 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 (“*Switchtrades*”) 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 Stronglenska UAB* (trading as “*CrocCoin*”), is a client of *OpenPayd*, and that *UAB Stronglenska UAB* is a fraud or has facilitated a fraud that caused the loss subject of this Complaint.

Complainant made a transfer through his account with an Italian bank “BPER: Banca” for value of €3,600 showing as beneficiary *UAB Stronglenska UAB* and

¹ Complaint Form on Page (P.) 1 - 7 with supporting documentation on P. 8 - 34

quoting their (V)IBAN number which was linked to *OpenPayd*. *OpenPayd* were indicated by name in the transfer order as the receiving intermediary.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:

*"We wish to make clear that OpenPayd has only ever provided its services to its former corporate client UAB Stronglėnva UAB (trading as 'CrocCoin'). UAB Stronglėnva 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. Vito Anello, his Client, (the Complainant), may have entered into a commercial agreement with the **Merchant**, after following directions 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 Stronglėnva UAB (trading as 'CrocCoin'), OpenPayd 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 Stronglėnva UAB (trading as 'CrocCoin').

² P. 28

³ P. 41 - 48

UAB Stronglenva 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. However, ultimately, OpenPayd has no control over any onward commercial relationships entered into between its corporate client, UAB Stronglenva 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 Stronglenva 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 Stronglenva 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 organisation – are entirely beyond OpenPayd’s knowledge and control. OpenPayd has 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:

“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 adjudge 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:

⁴ P. 42 - 43

‘a customer who is a consumer of a financial service 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 service provider.’ (emphasis added)

The Complainant makes it clear in the Complaint submitted by his representative that he was a victim of fraudsters, and OpenPayd has not, in any way, involved in the scam:

‘[...] I entered into a contractual agreement with the company ‘Switchtrades’, under the terms of which the Company was expected to carry out certain purchase operations and financial product sales on my behalf. In order to facilitate the commencement of these trading activities, I transferred funds to a bank account held by OpenPayd Financial Services Malta Ltd. [...]’

Here, we would like to once more emphasise that OpenPayd does not provide a(n) (bank) account, payment or investment service to Avv. Vito Anello’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, any 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

⁵ P. 46 - 47

Hearing

At the hearing held on 30 October 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

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."

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.

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."

⁶ P. 49 -50

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 “*Switchtrades*”), does not render the Complainant an eligible customer of the Service Provider.

The beneficiaries *UAB Stronglenva UAB* were clearly identified in the payment order. The fact that *OpenPayd* were identified as the intermediary institution does not signify that Complainant (remitter) was requesting any service from *OpenPayd* who merely credited the funds to an account of a corporate client identified as the beneficiary in the payment order.

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.