Before the Arbiter for Financial Services

Case ASF 049/2026

AB

('Complainant')

Vs

OpenPayd Financial Services Malta Limited

(C 75580)

('Service Provider' or 'OpenPayd')

Sitting of the 06 March 2026

The Arbiter refers to the preliminary plea raised in the reply[1] of OpenPayd challenging his competence to hear this complaint on the basis that Complainant is not an eligible customer in terms of the definition of Article 2 of CAP 555 of the Laws of Malta (The Act) that codifies the operation of this Arbitration.

<u>Decision re Preliminary Plea</u>

Article 22(2) of 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 further that:

[1] P. 108 - 111

"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.****"*[2]

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 Arbiter, before proceeding to hear evidence on the merits of the case, has to primarily decide whether the Complainant is in fact an **eligible customer** in terms of the Act. The Arbiter would not be competent to adjudicate the complaint unless the Complainant qualifies as an **eligible customer.**

On a similar issue in case reference ASF 155/2024[3] the Arbiter had decreed that as the beneficiary was clearly indicated as being the remitter himself, the Arbiter did not accept that the Complainant:

> *"Never sought the provision of a financial service from OPFS."*

The Arbiter accordingly had decreed that the Complainant in case ASF 155/2024 qualifies as an eligible customer and proceeded to adjudicate the case.

The said decisionwas appealed by OpenPayd. On 25 February 2026 the Court of Appeal revoked the Arbiter's decision in case ASF 155/2024 and decided that the Arbiter should have declared incompetence to adjudicate the case, as it considered Complainant not compliant with the definition of **'eligible customer'** in terms of Article 2 of the ACT[4].

As the circumstances of this case, insofar as the preliminary plea is concerned, are intrinsically similar to that applicable for ASF 155/2024, and in view of the

[2] Article 11(1)(a)

[3] https://financialarbiter.org.mt/sites/default/files/oafs/decisions/2097/ASF%20155-2024%20-%20PU%20vs%20OpenPayd%20Financial%20Services%20Limited.pdf

[4] https://ecourts.gov.mt/onlineservices/Judgements/Details?JudgementId=0&CaseJudgementId=159164

above-cited decision of the Court of Appeal, the Arbiter decrees that he has no competence to hear the case and hereby upholds the preliminary plea raised by the Service Provider in their reply.

This Complaint is therefore dismissed, and parties are to bear their own costs of these proceedings.

This is without any prejudice to the rights that Complainant may have to take her complaint to a court or tribunal competent to adjudicate it.

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Alfred Mifsud

Arbiter for Financial Services

<u>**Information Note related to the Arbiter's decision**</u>

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. Personal details of the Complainant(s) will be anonymised in terms of article 11(1)(f) of the Act.