**Before the Arbiter for Financial Services**

**Case ASF 286/2026**

**KA**

**(Complainant)**

**Vs**

**OpenPayd Financial Services Malta Limited**

**(C 75580)**

**(Service Provider or OpenPayd)**

**Sitting of 06 November 2026**

The Arbiter refers to his decree of 30 September 2026, where he stated:

QUOTE

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.

**Consideration of the Preliminary Plea**

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**:

[1] P. 77 - 82

> *"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.**"*[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 … Provided that in case of suspicious fraudulent payment transactions involving financial service providers, the victim of fraud exhibiting immediate, genuine and legitimate interest shall be deemed to be an eligible customer of any one of the financial services providers involved in the suspicious fraudulent payment transaction and this proviso shall be applicable from 1st October 2025*."

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.**

**For this purpose, Complainant is invited to make his case within two weeks hereof why in his opinion this transaction has rendered him a victim of fraud with immediate, genuine and legitimate interest, thus qualifying to be considered as eligible customer.**

UNQUOTE

[2] Article 11(1)(a)

The Complainant has not made any submissions within the stipulated time, and the Arbiter is interpreting this as Complainant's acceptance of the preliminary plea raised by Service Provider.

Furthermore, irrespective of the consequence of Complainant's failure to challenge the preliminary plea of non-competence raised by Service Provider, the Arbiter declares that given the particular circumstances of this case, there are no grounds to consider the transaction complained of

> *"suspicious fraudulent payment transactions involving financial service providers, the victim of fraud exhibiting immediate, genuine and legitimate interest",*

given that:

a. it was a single shot transaction
b. the amount was for a small amount (€440)
c. Service Provider merely credited the funds to the IBAN account indicated in the payment order.

**Decision**

In the circumstances, for reasons above explained, the Arbiter is dismissing this complaint on the basis that he has no competence to hear its merits and adjudicate it in terms of Article 22(2) of CAP. 555 of the Laws of Malta. This decision is being communicated to the parties in terms of Article 25(5) of the same CAP. 555.

Parties are to carry their own expenses of these proceedings.

**Alfred Mifsud**
**Arbiter for Financial Services**

*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.