

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Data Protection Commission pursuant to Article 77 of the General Data Protection Regulation, concerning [REDACTED]

Record of Amicable Resolution of the complaint and its consequent withdrawal pursuant to Section 109(3) of the Data Protection Act, 2018

Further to the requirements of Internal EDPB Document 06/2021 on the practical implementation of amicable settlements (adopted on 18 November 2021)

**RECORD OF AMICABLE RESOLUTION FOR THE  
PURPOSE OF INTERNAL EDPB DOCUMENT 06/2021 ON  
THE PRACTICAL IMPLEMENTATION OF AMICABLE  
SETTLEMENTS, ADOPTED 18 NOVEMBER 2021**

Dated the 26<sup>th</sup> day of August 2022



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## Background

1. On 26 May 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Data Protection Commission (“the **DPC**”) concerning [REDACTED] (“the **Respondent**”).
2. The DPC was deemed to be the competent authority for the purpose of Article 56(1) GDPR.

## The Complaint

3. The details of the complaint were as follows:
  - a. The Data Subject emailed the Respondent on two separate occasions to request the delisting of two URLs.
  - b. The Respondent refused these delisting requests, asserting that they did not meet the criteria outlined by the European Court of Justice for delisting.

## Action taken by the DPC

4. The DPC, pursuant to Section 109(4) of the Data Protection Act, 2018 (“the **2018 Act**”), is required, as a preliminary matter, to assess the likelihood of the parties to the complaint reaching, within a reasonable time, an amicable resolution of the subject-matter of the complaint. Where the DPC considers that there is a reasonable likelihood of such an amicable resolution being concluded between the parties, it is empowered, by Section 109(2) of the 2018 Act, to take such steps as it considers appropriate to arrange or facilitate such an amicable resolution.
5. Following a preliminary examination of the material referred to it by the Data Subject, the DPC considered that there was a reasonable likelihood of the parties concerned reaching, within a reasonable time, an amicable resolution of the subject matter of the complaint. The DPC’s experience is that complaints of this nature are particularly suitable for amicable resolution in circumstances where there is an obvious solution to the dispute, if the respondent is willing to engage in the process. In this regard, the DPC had regard to:
  - a. The relationship between the Data Subject and Respondent (being, in this case, an individual consumer and a service provider); and
  - b. The nature of the complaint (in this case, an unsuccessful attempt by the Data Subject to exercise his/her data subject rights).
6. While not relevant to the assessment that the DPC is required to carry out pursuant to Section 109(4) of the 2018 Act, the DPC also had regard to Internal EDPB Document 06/2021 on the practical implementation of amicable settlements, adopted on 18 November 2021 (“**Document 06/2021**”), and considered that:

- a. the possible conclusion of the complaint by way of amicable resolution would not hamper the ability of the supervisory authorities to maintain the high level of protection that the GDPR seeks to create; and that
- b. such a conclusion, in this case, would likely carry advantages for the Data Subject, whose rights under the GDPR would be vindicated swiftly, as well as for the controller, who would be provided the opportunity to bring its behaviour into compliance with the GDPR.

### **Amicable Resolution**

7. The DPC engaged with both the Data Subject and Respondent in relation to the subject-matter of the complaint. Further to that engagement, the Respondent established that the URLs of which the Data Subject complained were eligible for delisting. In the circumstances, the Respondent agreed to take the following action:
  - a. Following a further review of the Data Subject's request, the Respondent agreed to delist the URLs which were the subject matter of this complaint; and
  - b. The Respondent also notified the Data Subject directly of the action taken.
8. On 16 September 2021, the DPC informed the Data Subject that the Respondent had agreed to delist both URLs that were the subject matter of this complaint. On 24 September 2021, the Data Subject informed the DPC that they had written to the Respondent noting that the URLs continued to be returned. The Data Subject outlined that the Respondent had asserted that the search criteria it had used was invalid. The Respondent had outlined that the Data Subject could not add a place name to the search criteria used when conducting a search, as this addition was outside of the permissible parameters for search criteria identified by the Courts of Justice of the European Union. The DPC clarified for the Data Subject that the permissible search criteria was for 'name only'. As such, the delisted URLs still exist and can continue to be returned in a search of additional search terms.
9. On 11 October 2021, the Data Subject outlined to the DPC that they had carried out a further [REDACTED] search against their name and one of the complained-of URLs continued to be returned. The DPC subsequently engaged further with the Respondent, outlining the Data Subject's outstanding concern, providing a copy of the screenshots the Data Subject had provided. On 28 October 2021, the Respondent replied that it appeared the Data Subject had conducted the search on the US-based [REDACTED] search engine, which is provided by a separate entity domiciled and operating out of the United States. On 9 November 2021, the DPC explained to the Data Subject that the Respondent is only obliged to carry out a delisting request pursuant to Article 17 GDPR on its search engines provided across Member States in the European Union. The DPC noted that as both of the complained-of URLs had been delisted the dispute between the Data Subject and Respondent appeared to have been resolved. Under the circumstances, the DPC asked the Data Subject to notify it, within one month, if they were not satisfied with the outcome, so that the DPC could take further action. The DPC did not receive

any further communication from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.

10. In circumstances where the subject-matter of the complaint has been amicably resolved, in full, the complaint, by virtue of Section 109(3) of the 2018 Act, is deemed to have been withdrawn by the Data Subject.

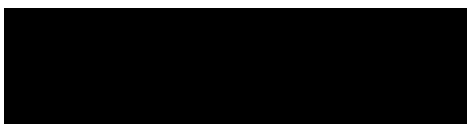
**Confirmation of Outcome**

11. For the purpose of Document 06/2021, the DPC confirms that:

- a. The complaint, in its entirety, has been amicably resolved between the parties concerned;
- b. The agreed resolution is such that the object of the complaint no longer exists; and
- c. Having consulted with the supervisory authorities concerned on the information set out above, as required by Document 06/2021, the DPC has now closed off its file in this matter.

12. If dissatisfied with the outcome recorded herein, the parties have the right to an effective remedy by way of an application for judicial review, by the Irish High Court, of the process applied by the DPC in the context of the within complaint.

Signed for and on behalf of the DPC:



**Sandra Skehan**  
**Deputy Commissioner**