

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

IMI Complaint Reference Number: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the French Data Protection Authority pursuant to Article 77 of the General Data Protection Regulation, concerning MTCH Technology Services Limited

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 EDPB Guidelines 06/2022 on the practical implementation of amicable settlements Version 2.0 (adopted on 12 May 2022)

**RECORD OF AMICABLE RESOLUTION FOR THE
PURPOSE OF EDPB GUIDELINES 06/2022 ON THE
PRACTICAL IMPLEMENTATION OF AMICABLE
SETTLEMENTS VERSION 2.0, ADOPTED 12 MAY 2022**

Dated the 15th day of December 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the French Data Protection Authority (“the **Recipient SA**”) concerning MTCH Technology Services Limited (“the **Respondent**”).
2. In circumstances where the Data Protection Commission (“the **DPC**”) was deemed to be the competent authority for the purpose of Article 56(1) GDPR, the Recipient SA transferred the complaint to the DPC on 22 February 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject was dissatisfied with the Respondent’s response to their Article 13 GDPR request for information and their Article 15 GDPR access request, following the suspension of their account.
 - b. The Data Subject was also dissatisfied with portions of MTCH’s updated Terms of Service and Privacy Policy, insofar as it related to the retention of personal data of individuals banned from the Tinder service.

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 Recipient SA, 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 their 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 EDPB Guidelines 06/2022 on the practical

implementation of amicable settlements Version 2.0, adopted on 12 May 2022 (“**Document 06/2022**”), 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 (via the Recipient SA) and Respondent in relation to the subject-matter of the complaint. Further to that engagement, the Respondent conducted a fresh review of the Data Subject’s account ban and decided to lift it. In the circumstances, the Respondent took the following actions:
 - a. The Respondent contacted the Data Subject directly, informing them that their account ban had been lifted; and
 - b. The Respondent provided the DPC with information relating to the Data Subject’s concerns with respect to any automated profiling and processing of personal data which may result in an account being banned. The Respondent also provided information on the duration for which the Respondent retains personal data relating to banned accounts.
8. On 20 May 2022, the DPC outlined the Data Subject’s complaint to the Respondent. The DPC noted that the Data Subject was dissatisfied with portions of the Respondent’s updated Terms of Service and Privacy Policy, insofar as it related to the retention of personal data of individuals banned from the Tinder service. The DPC also noted that the Data Subject’s Tinder account had been banned by the Respondent for a violation of its Terms of Use or Community Guidelines.
9. The DPC informed the Respondent of the Data Subject’s concerns regarding automated decision making, and their assertion that the Respondent’s retention of their data for ‘as long as necessary’ as a result of their account ban is without proper oversight, and could lead to the Respondent retaining personal data indefinitely. The DPC highlighted that the Respondent had previously confirmed to the Data Subject that their account was banned from its service due to a violation of its Terms of Use or Community Guidelines. The DPC noted that the Respondent had stated in this correspondence to the Data Subject that it did not offer an appeal process at that time, and that the Data Subject’s account would remain banned, and furthermore they would not be able to create a new Tinder profile using their Facebook account and/or phone number.

10. On 20 June 2022, the Respondent responded to the DPC. The Respondent stated that its Tinder Trust and Safety team had reviewed the Data Subject's account again and found that it had no record of an appeal process being conducted. However, the Respondent confirmed that it had decided to lift the ban on the Data Subject's account, allowing the Data Subject to create a new account.
11. The Respondent also provided information on their account banning practices and their retention policies. The Respondent clarified that when an account is deleted or banned, the vast majority of personal data is deleted, and that only limited personal data is retained to ensure the safety of its users and protect their vital interests. The Respondent explained that this data is retained for 5 years, and then subsequently deleted. On 8 August 2022, the DPC wrote to the Data Subject via the Recipient SA outlining the information received from the Respondent. In the circumstances, the DPC asked the Data Subject to notify it, within 2 months, 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.
12. On 1 November 2022, and in light of the foregoing, the DPC wrote to the Recipient SA noting that the DPC considered the complaint to have been amicably resolved and withdrawn in accordance with section 109(3) of the Act and that it would conclude the case and inform the Respondent.
13. 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

14. For the purpose of Document 06/2022, 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 06/2022 the DPC has now closed off its file in this matter.
15. 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:

A handwritten signature in black ink that reads "Tom Delaney". The signature is written in a cursive, flowing style.

Deputy Commissioner

Data Protection Commission