

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, the Commission Nationale de l'Informatique et des Libertés, 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 29th day of May 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 8 February 2022, [REDACTED] (“**the Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with French Data Protection Authority (Commission Nationale de l'Informatique et des Libertés) (“**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 12 May 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. On 28 January 2022, the Data Subject, whose account had been banned some time previously, submitted an access and data portability request to the Respondent pursuant to Articles 15 and 20 GDPR.
 - b. The Respondent’s responses noted that it could not identify an account associated with the email address used by the Data Subject in their correspondence, and explained in general terms that personal data associated with banned accounts is deleted in accordance with its retention policies. The Respondent also noted that, for legitimate and lawful purposes, only limited data may be retained.
 - c. The Data Subject was not satisfied with the response received from the Respondent, and also suggested that further data relating to their account was being retained by the Respondent.

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. On 4 July 2022, the DPC wrote to the Respondent outlining the subject matter of the complaint. When writing to the Respondent the DPC highlighted that as the Data Subject’s account was banned, they were unable to access the self-service tools. The DPC further requested that the Respondent address queries relating to the Data Subject’s ban, their access request, and its reasoning and legal basis for withholding any data on foot of the request.
- 8. On 4 August 2022, the Respondent explained to the DPC that it was unable to accommodate the Data Subject’s requests because the email address they had corresponded from did not match the address associated with the account. As such, the Respondent was unable to identify the account they were referring to. The Respondent advised that the Data Subject should submit a request from the email address associated with their account and that, once received, it would be able to accommodate the Data Subject’s request.
- 9. On 1 September 2022, in response to further, follow-up correspondence from the DPC, the Respondent confirmed that the Data Subject had verified ownership of their account and that their request had been completed in full. The Respondent provided the DPC with a copy of the correspondence shared with the Data Subject in this regard. The Respondent addressed the DPC’s queries relating to the Data Subject’s ban, and the Respondent’s reasoning and legal basis for withholding any data on foot of the request. The Respondent also confirmed that, following a review of the ban and in light of the time that had elapsed since, it had now lifted the ban and reinstated the Data Subject’s account.
- 10. The DPC wrote to the Data Subject via the Recipient SA on 16 September 2022. When doing so, the DPC noted that, the requested personal data now having been provided by the

Respondent, the Data Subject's account having been reinstated and their outstanding concerns addressed, the dispute between the Data Subject and Respondent appeared to have been resolved. In the circumstances, the DPC asked the Data Subject to notify it, within two 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.

11. On 21 April 2023, 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.
12. 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

13. 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.
14. 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:



Deputy Commissioner

Data Protection Commission