

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 MTCH Technology Services.

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 6th day of July 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 4 March 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Data Protection Commission (“the **DPC**”) concerning MTCH Technology Service Limited (“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 had concerns about their account allegedly being matched by the Respondent with malicious accounts. In order to test this, the Respondent had changed their profile picture to a fake photo and noticed that their account was been banned shortly afterwards. The Data Subject was also concerned about their account being “shadow banned” and other accounts belonging to them had been banned across multiple platforms operated by the Respondent.
 - b. On 31 January 2022, the Data Subject submitted an access request to the Respondent following the disablement of their account. In particular, the Data Subject sought details of the reasons for their account suspension and information about what their personal data were used for and who they were shared with. The Data Subject also queried the alleged lack of an appeals process or warnings having been provided to them in respect of the disablement.
 - c. The Data Subject was dissatisfied with the responses received from the Respondent and submitted their complaint to the DPC on 4 March 2021.

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 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 and Respondent in relation to the subject-matter of the complaint. On 11 August 2022, the DPC wrote to the Respondent to formally commence its investigation and requested that it fully address the concerns raised.
8. Over the course of the investigation, the Respondent confirmed that the Data Subject’s account had been banned for impersonation (an infringement of the Respondent’s terms of service), and that the Data Subject had admitted to this. The Respondent also provided a full breakdown of the appeal process and confirmed that the Data Subject had availed of this process, but that the appeal was rejected. The Respondent explained that it had carried out a fresh review of the matter on foot of the DPC’s engagement and that, in light of the nature of the violation and the Data Subject’s admission to same, it had decided to uphold the ban.
9. The Respondent explained how the Data Subject could access their information via its self-service tool and clarified that this tool is still available to the Data Subject regardless of the fact that their account was now disabled. The Respondent confirmed that, according to its records, the Data Subject had not utilised the self-service tool to date. The Respondent explained that all information the Data Subject had requested regarding how it uses their personal data and who it is shared with is included within its privacy policy, and directed the DPC to the relevant sections where this information could be obtained.
10. The Data Subject confirmed to the DPC on 27 September 2022 that they had since availed of the self-service tool and had successfully accessed their data.

11. Regarding the Data Subject's concerns about "shadow banning" and malicious matches, the Respondent confirmed that the Data Subject's account was only banned following a human review of the infringement and that there was no processing that would result in the Data Subject being banned with malicious users. Regarding the Data Subject's concerns about being banned across multiple platforms, the Respondent explained that it had identified a number of different phone numbers and email addresses used on the Respondent's Tinder platform which all appeared to be linked to the same individual, and on that basis those accounts were banned for a violation of the Respondent's terms of service (in this case, impersonation). The Respondent confirmed that all of these banned accounts were on the Respondent's Tinder platform only. However, the Respondent further explained that, although that was not the case here, it reserves the right to ban accounts across several of its platforms in accordance with its privacy policy. The Respondent also confirmed that the Data Subject's personal data relating to their ban was not disclosed to third party organisations.
12. The DPC provided the Data Subject with all information and explanations provided by the Respondent over the course of the investigation. On 2 March 2023, the DPC wrote to the Data Subject noting that, in light of the information and explanations provided, it appeared that the Data Subject's concerns had been adequately addressed by the Respondent. The DPC also noted that the Data Subject had since confirmed to it that they were able to access their data using the self-service tool. In the circumstances, the DPC asked the Data Subject to notify it, within a specified timeframe, 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.
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:

Tom Delaney

Deputy Commissioner

Data Protection Commission