<u>In the matter of the General Data Protection Regulation</u>

DPC Complaint Reference: ▆▆▆▆▆▆

In the matter of a complaint, lodged by ▆▆▆▆▆▆ **with the Data Protection Commission 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 ON 12 MAY 2022)

Dated the 4th day of November 2022

An Coimisiún um
Chosaint Sonraí
Data Protection
Commission

Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 31 December 2021, ▮▮▮▮▮▮ ("the **Data Subject**") lodged a complaint pursuant to Article 77 GDPR with the Data Protection Commission ("the **DPC**") concerning MTCH Technology Services 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 emailed the Respondent on 28 December 2021 seeking the full erasure of their personal data from the Respondent's platform under Article 17 GDPR.

   b. In response to this request, the Respondent directed the Data Subject to the platform's in-app tool. The Respondent advised the Data Subject that by using this in-app tool, they could begin the deletion process of their personal data.

   c. The Data Subject was not satisfied with the response received from the Respondent, as they had reservations as to whether this process would be sufficient to obtain the full erasure of their data. On this basis, the Data Subject made a complaint to the DPC.

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, 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 the Data Subject and Respondent in relation to the subject matter of the complaint. Further to that engagement, on 22 June 2022, the Respondent confirmed to the DPC that the Data Subject had already utilised the in-app tool and deleted their account, which resulted in the erasure of their personal data. The Respondent further confirmed that this action occurred prior to the DPC commencing the complaint with the Respondent.

8. Following receipt of this correspondence from the Respondent, the DPC wrote to the Data Subject on 06 July 2022, confirming that their data had now been deleted. In the circumstances, the DPC asked the Data Subject to notify it, within the specified timeframe, if they were not satisfied with the outcome, so that the DPC could consider the matter further.

9. The DPC can confirm that no response has been received from the Data Subject in relation to this.

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 06/2022, 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.

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:

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Deputy Commissioner
Data Protection Commission