

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

IMI Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with 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 ON 12 MAY 2022)**

Dated the 2nd day of December 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 14 July 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the 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 23 July 2021.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject’s account was suspended by the Respondent. The Data Subject stated in their complaint that they subsequently submitted an erasure request to the Respondent under Article 17 GDPR by email on 25 April 2021.
 - b. The Data Subject asserted that they received an email from the respondent on 1 May 2021. In this email, the Respondent advised the Data Subject that following a violation of the Respondent’s Terms of Use, the Respondent had suspended the Data Subject’s account on 10 March 2021 and as part of that suspension, certain data would be retained in line with the Respondent’s retention policies.
 - c. The Data Subject was dissatisfied with the response received from the Respondent and believed that the Respondent had not fulfilled their request for erasure.
 - d. As the Data Subject was not satisfied with the response received from the Respondent regarding the concerns raised, the Data Subject lodged a complaint with the recipient supervisory authority.

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, it was established that the Respondent had suspended the Data Subject’s account and following this suspension, it had retained the Data Subject’s personal data. According to the Respondent, the retention of this data was in line with the Respondent’s data retention policy. Following engagement between the Respondent and the DPC, the Respondent provided the DPC with the following information in respect of the complaint:
 - a. The Respondent agreed to conduct a fresh review of the Data Subject’s suspension.
 - b. Following this review, the Respondent asserted that, due to the nature and volume of the violations by the Data Subject, they were not in a position to lift the suspension of the account.
 - c. In the circumstances, the Respondent offered to provide more information to the Data Subject in relation to the Respondent’s practices.
8. The DPC’s letter outlining the information provided by the Respondent issued to the Data Subject on 7 July 2022 via the Recipient SA. Within its letter to the Data Subject, the DPC noted that the Respondent’s reply attempted to address the data protection concerns set out in the complaint.

9. The DPC requested that the Data Subject notify it, within a specified timeframe, if they were not satisfied with the information provided by the Respondent, so that the DPC could further review their complaint. On 13 September 2022, the Recipient SA confirmed that no response had been received from the Data Subject.
10. On 06 October 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.
11. 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

12. 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.
13. 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