

**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 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 Internal EDPB Document 06/2021 on the practical implementation of amicable settlements (adopted on 18 November 2021)

**RECORD OF AMICABLE RESOLUTION FOR THE  
PURPOSE OF INTERNAL EDPB DOCUMENT 06/2021 ON  
THE PRACTICAL IMPLEMENTATION OF AMICABLE  
SETTLEMENTS, ADOPTED 18 NOVEMBER 2021**

Dated the 2nd day of December 2022



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## Background

1. On 3 September 2020, [REDACTED] (“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 contacted the Respondent on 18 July 2020, requesting access to their personal data, in order to understand what personal data the Respondent processed in relation to them, along with the reason for their account suspension.
  - b. The Data Subject was not satisfied with the response received from 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 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 Internal EDPB Document 06/2021 on the practical implementation of amicable settlements, adopted on 18 November 2021 (“**Document 06/2021**”), 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. Further to that engagement, it was established that the Data Subject's account was disabled due to a breach of the Respondent's Terms of Use and Community Guidelines, but that the Respondent was willing to reactivate the Data Subject's account if they agreed to abide by its Terms of Use and Community Guidelines in future. In the circumstances, the Respondent took the following actions:
  - a. the Respondent agreed to reactivate the Data Subject's account; and
  - b. the Respondent offered to assist the Data Subject in relation to their access request, if they still wished to receive a copy of their personal data following the reactivation of their account.
8. On 7 July 2021, the DPC outlined the Data Subject's complaint to the Respondent. The DPC noted that the Data Subject's account had been disabled, and they were concerned that they had no means to withdraw their consent for the Respondent's processing of their personal data. On 21 July 2021, the Respondent replied to the DPC, and confirmed that the Data Subject's account was disabled due to a breach of its Terms of Use and Community Guidelines. The Respondent also provided the DPC with a summary of its interaction with the Data Subject regarding their access request. The Respondent explained that it had requested that the Data Subject verify their identity, however, the Data Subject had refused to provide sufficient information to verify their identity. The Respondent also stated that it had not retained any personal data based on the Data Subject's consent. However, the Respondent confirmed that it had conducted a review of the decision to disable the Data Subject's account and it concluded that it would be willing to reactivate the Data Subject's account, once they agreed to abide by its Terms of Use and Community Guidelines. The Respondent stated that it remained willing to provide the Data Subject with a copy of their personal data, if they were still interested in receiving it, once the Data Subject verified their identity.
9. The DPC subsequently wrote to the Data Subject on 27 August 2021, informing them of the Respondent's proposal. On 1 September 2021, the Data Subject responded to the DPC, and agreed to the Respondent's proposal to regain access to their account, but stated that they would not provide any additional personal data in order to do so. On 9 November 2021, the DPC informed the Respondent that the Data Subject had indicated that they accepted its proposal to regain access to their account.

10. On 16 November 2021, the Respondent confirmed to the DPC that it had written to the Data Subject to inform them that their account ban had been lifted in light of their acceptance of its proposal. The Respondent also stated that it had reiterated its offer to assist the Data Subject in relation to their access request. On 26 November 2021, the DPC wrote to the Data Subject. 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. 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 06/2021, 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 06/2021 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:



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Deputy Commissioner

Data Protection Commission