

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 Aut O'Mattic A8C Ireland 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 5<sup>th</sup> day of September 2023



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## **Background**

1. On 1 December 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Data Protection Commission (“the **DPC**”) concerning Aut O'Mattic A&C Ireland Limited (“the **Respondent**”).
2. The DPC was deemed to be the competent authority for the purpose of Article 56(1) of the GDPR.

## **The Complaint**

3. The details of the complaint were as follows:
  - a. The Data Subject contacted the Respondent on 21 March 2021 by post, to request deletion of their personal data from the Respondent’s platform as per Article 17 of the GDPR.
  - b. The Data Subject did not receive any response from the Respondent to their postal letter requesting deletion of their personal data.
  - c. As the Data Subject received no response from the Respondent, they lodged a complaint with 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 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 and the Respondent in relation to the subject matter of the complaint. Prior to the commencement of the complaint with the Respondent, the DPC sought further information from the Data Subject, i.e. copies of correspondence between the Data Subject and the Respondent, and also the username/email address that was associated with the account in question. Following receipt of the required information from the Data Subject, the DPC commenced the case with the Respondent. Further to that engagement, on 23 August 2022, the Respondent advised that while they found no record of receiving any postal mail from the Data Subject, they had established that they had previously received an email from the Data Subject in February 2019, requesting the erasure of their account. According to the Respondent, the erasure request from February 2019 had not been complied with at the time, as the Data Subject had been unable to verify their identity. As a result, the Respondent had been unable to proceed with the deletion request at that time. The Respondent also advised the DPC that as part of the amicable resolution process, it was now in a position to initiate the deletion process of the account and delete all data. The Respondent advised that this deletion process would take up to 30 days to complete.
8. On 1 September 2022, the DPC communicated this information to the Data Subject via post, seeking their views on the action taken by the Respondent and requesting that the Data Subject notify it, within a specified timeframe, if they were not satisfied with the action taken by the Respondent, so that the DPC could take further action.
9. On 21 March 2023, the DPC received correspondence from the Data Subject, in this correspondence the Data Subject requested evidence from the Respondent that the data had been deleted. On 31 March 2023, the DPC forwarded this request to the Respondent. On 24 April 2023, the Respondent provided evidence to the DPC that the personal data had been fully deleted. The DPC wrote to the Data Subject seeking their views on the action taken by the Respondent and requesting that the Data Subject notify it, within a specified timeframe, if they were not satisfied with the action taken by the Respondent, 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.

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