

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 Bayerisches Landesamt für Datenschutzaufsicht (Bavaria DPA) 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 10th day of November 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 24 July 2021, ██████████ (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Bayerisches Landesamt für Datenschutzaufsicht (“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) of the GDPR, the Recipient SA transferred the complaint to the DPC on 25 November 2021.

The Complaint

3. The details of the complaint were as follows:
 - a. Following the suspension of the Data Subject’s account on 3 January 2021, the Data Subject sought a copy of their data from the Respondent on 22 July 2021 and received a copy of their data that same day. The Data Subject subsequently submitted an erasure request under Article 17 of the GDPR later that day.
 - b. The Respondent replied to the Data Subject on 23 July 2021 advising that it had taken steps to remove the account from being visible to others on the platform. The Data Subject responded on the same day, advising that following the suspension of their account six months ago, the Respondent was still retaining their personal data and therefore re-iterated their request for erasure of their personal data. The Respondent replied citing legal reasons for the retention of the personal data.
 - c. As the Data Subject was not satisfied with the response received from the Respondent, they lodged a complaint with the Recipient SA.

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 due to the Data Subject’s violation of the Respondent’s Community Guidelines. Following this suspension, it had retained the Data Subject’s personal data in line with its data retention policy. In the circumstances, the Respondent agreed to take the following action:
- a. To conduct a fresh review of the Data Subject’s suspension. Following this review, the Respondent chose to lift the suspension, which would allow the Data Subject to create a new account on the platform, should they wish to do so.
 - b. To communicate the outcome of its review and provide further information on its data retention practices directly to the Data Subject.
8. On 24 June 2022, the DPC’s letter outlining the actions taken by the Respondent as part of the amicable resolution process issued to the Recipient SA, for onward transmission to the Data Subject. In its correspondence to the Data Subject, the DPC requested that the Data Subject notify it, within a specified timeframe, if they were not satisfied with the actions taken by the Respondent, so that the DPC could take further action. The Recipient SA confirmed to the DPC that they issued this correspondence to the Data Subject on 7 September 2022.
9. On 9 November 2022, the Recipient SA informed the DPC that the Data Subject had responded to the DPC’s letter noting their dissatisfaction with the response provided by the Respondent

in relation to the retention of their personal data. As a result, the Data Subject requested confirmation of the deletion of the remaining personal data.

10. The DPC continued to engage with both the Data Subject and the Respondent in order to bring about an amicable resolution to the complaint. Over the course of the handling of the complaint, the DPC maintained regular contact with the Data Subject to keep them informed of the progression and status of their complaint. As part of this further engagement, the Respondent provided confirmation of the deletion dates of the remaining personal data to the DPC.
11. On 14 June 2023, the DPC wrote to the Data Subject via the Recipient SA, confirming the deletion date of the remaining personal data, as part of the amicable resolution process. In its correspondence to the Data Subject, the DPC requested that the Data Subject notify it, within a specified timeframe, if they were not satisfied with the actions taken by the Respondent, so that the DPC could take further action. The Recipient SA confirmed to the DPC that they issued this correspondence to the Data Subject on 19 June 2023.
12. On 13 September 2023, the Recipient SA confirmed to the DPC, that no response had been received from the Data Subject.
13. On 18 September 2023, 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. On 19 September 2023, the Recipient SA confirmed receipt of the DPC correspondence, which had advised that the complaint was deemed withdrawn.
14. 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

15. 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.
16. 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:

A handwritten signature in black ink that reads "Tony Delaney". The signature is written in a cursive style with a large initial 'T' and 'D'.

Deputy Commissioner
Data Protection Commission