

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

IMI Complaint Reference Number: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Spanish Data Protection Authority pursuant to Article 77 of the General Data Protection Regulation, concerning Yahoo EMEA 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 12 MAY 2022**

Dated the 24th day of November 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 18 February 2020, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Spanish Data Protection Authority (“the **Recipient SA**”) concerning Yahoo EMEA 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 March 2020.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject submitted a delisting request to the Respondent on 12 December 2019 in respect of a number of URLs. The Data Subject asserted that the information contained within the URLs was inaccurate.
 - 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 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 some of the URLs which were the subject matter of the complaint were still appearing following a search of the Data Subject's name by the Recipient SA. In the circumstances, the Respondent took the following actions:
 - a. The Respondent conducted a further review of the requested URLs, with reference to the Data Subject's name inclusive of Spanish accent marks; and
 - b. The Respondent agreed to delist the URLs that were the subject matter of the Data Subject's complaint.
8. On 9 June 2020, the DPC outlined the Data Subject's complaint to the Respondent, providing a list of the URLs that the Data Subject requested to have delisted. On 25 June 2020, the Respondent responded to the DPC. The Respondent informed the DPC that it had taken action to block 22 of the URLs submitted for delisting. The Respondent noted that a further 59 of the URLs submitted were not found in a search conducted by the Respondent, and as such could not be blocked. The Respondent also noted that a further 2 URLs were not blocked on the basis that it was not possible to establish a connection between the content displayed and the Data Subject's name.
9. On 18 February 2021, the Recipient SA wrote to the DPC, stating that it had conducted its own search of the Data Subject's name, and that a number of URLs which the Respondent had previously confirmed had been delisted were still appearing. The Recipient SA noted that the Data Subject's name should be searched by the Respondent utilising all relevant Spanish accent marks, along with all combinations of the Data Subject's first name and two surnames. Following further engagement with the Respondent, on 24 March 2021 the Respondent responded to the DPC, listing all the variations of the Data Subject's name that had been searched inclusive of Spanish accent marks, and the URLs subsequently actioned as a result of this search.
10. On 21 July 2021, the DPC wrote to the Data Subject via the Recipient SA, outlining the correspondence received from the Respondent. On 19 August 2021, the DPC received correspondence from the Recipient SA, highlighting that 1 URL out of the list originally

requested for delisting by the Data Subject continued to be returned. On 27 August 2021, the DPC wrote to the Respondent again, requesting that it investigate this URL still being returned, and conduct a search for any other requested URLs which may be returning. On 23 September 2021, the Respondent responded to the DPC, stating that it had reviewed all of the URLs, which were the subject matter of the Data Subject's complaint and confirmed that these URLs had now been delisted.

11. The DPC subsequently wrote to the Data Subject via the Recipient SA. When doing so, the DPC noted that now that the URLs, which were the subject matter of the complaint, had been delisted, the dispute between the Data Subject and Respondent appeared to have been resolved. 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.
12. On 6 April 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.
13. 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

14. 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.
15. 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 "Tom Delaney". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Deputy Commissioner

Data Protection Commission