

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 Der Bundesbeauftragte für den Datenschutz und die Informationsfreiheit pursuant to Article 77 of the General Data Protection Regulation, concerning Yahoo EMEA Limited (formerly Oath 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 ON 12 MAY 2022)**

Dated the 6<sup>th</sup> day of March 2023



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## Background

1. On 22 September 2018, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with Der Bundesbeauftragte für den Datenschutz und die Informationsfreiheit (“the **Recipient SA**”) concerning Yahoo EMEA Limited (formerly Oath 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.

## The Complaint

3. The details of the complaint were as follows:
  - a. Following the introduction of revised Terms of Service by the Respondent, the Data Subject contacted their Supervisory Authority, raising concerns regarding the validity of the consent that they were required to provide in order to continue using the Respondent’s product. As the Data Subject had not agreed to the new Terms of Service, they had lost the ability to access their personal data directly themselves. The Data Subject therefore requested that they be provided either with access to their personal data, or be supplied with a copy of the personal data.

## 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. In their initial response to the DPC, the Respondent provided information to the DPC that could be shared with the Data Subject, addressing the specific concerns raised in the complaint. The information provided referred to changes to the Respondent’s Terms of Service, which were of relevance to the complaint. The Respondent also provided information for the Data Subject on how to manage their privacy settings.
8. The DPC provided a copy of this response to the Recipient SA, for onward transmission to the Data Subject. By way of reply, in correspondence received by the DPC, the Data Subject requested that the DPC continue to investigate the matter further with the Respondent. In particular, the Data Subject again raised an issue, with the Respondents change in practice regarding its Terms of Service.
9. The DPC continued to engage with the Respondent on behalf of the Data Subject, to seek an amicable resolution to their complaint.
10. In a response received by the DPC on 20 December 2021, the Respondent noted that the Data Subject had previously requested that they be provided with a copy of their personal data. In the spirit of amicable resolution, the Respondent offered to provide the Data Subject with a copy of all of their personal data, on either an encrypted DVD or USB stick.
11. The DPC issued correspondence via the Recipient SA, seeking the Data Subject’s agreement to this proposal made by the Respondent. This letter issued to the Recipient SA on 19 January 2022, for onward transmission to the Data Subject. The Recipient SA subsequently provided this correspondence to the Data Subject on 30 March 2022.
12. On 6 April 2022, the DPC received a response from the Data Subject, via the Recipient SA, in which the Data Subject stated that they were agreeable to this offer proposed by the Respondent, and requested that they be provided with a copy of all of their personal data.

13. On 01 June 2022, the Respondent confirmed to the DPC that a copy of the DVD had been sent via registered post, directly to the Data Subject. The Respondent also confirmed that this was declared as delivered to the Data Subject's address on 23 August 2022.
14. The DPC's letter outlining the actions taken by the Respondent as part of the amicable resolution process issued to the Recipient SA on 17 June 2022, 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 DPC received no response from the Data Subject to this letter.
15. On 19 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.
16. 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**

17. 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.
18. 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, appearing to read "Tom Delaney". The signature is written in a cursive, flowing style.

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Deputy Commissioner  
Data Protection Commission