

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 Commission Nationale de l'Informatique et des Libertés (France 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 13th day of December 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 30 October 2022, ██████████ (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Commission Nationale de l'Informatique et des Libertés (“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 28 June 2023.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent on 6 August 2022, to seek a copy of their data, following the suspension of their account. On 7 August 2022, the Respondent provided the Data Subject with a link to its self-service tool where the Data Subject could download a copy of their data.
 - b. On 1 September 2022, the Data Subject submitted an erasure request under Article 17 of the GDPR. Later that day, the Respondent replied advising that it had taken steps to remove the account from being visible to others on the platform. It further advised the Data Subject that, as a result of a violation of the Respondent’s Terms of Service and Community Guidelines, some personal data would be retained in line with the Respondent’s retention policies.
 - c. In the Data Subject’s reply of 2 September 2022, they re-iterated their erasure request and noted that the Respondent did not delete their personal data as they could access their data using the self-service tool. The Respondent replied later that day, citing legal reasons for the retention of certain data after account suspension.
 - d. 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. The DPC first contacted the Respondent on 3 August 2023. Further to that engagement, it was established that the Respondent had suspended the Data Subject’s account due to a violation of the Respondent’s Community Guidelines. The Respondent advised the DPC that the Data Subject had acknowledged the suspension on their account on 30 July 2022. The Respondent further advised the DPC that it had conducted a fresh review of the Data Subject’s suspension. Following this review, the Respondent asserted that due to the nature of the violation by the Data Subject, it was not in a position to lift the suspension of the account. The Respondent further advised that it had deleted the majority of the Data Subject’s personal data and only retained certain personal data in line with its data retention policy. In the circumstances, the Respondent agreed to provide more information to the Data Subject in relation to its practices.
8. On 5 September 2023, the DPC’s letter outlining the information provided by the Respondent, which included the deletion dates of the remaining personal data, 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 21 September 2023

9. On 18 October 2023, the Recipient SA confirmed to the DPC, that no response had been received from the Data Subject.
10. On 19 October 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 3 November 2023, the Recipient SA confirmed receipt of the DPC correspondence, which had advised that the complaint was deemed withdrawn.
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 06/2022, 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.
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:



Deputy Commissioner
Data Protection Commission