

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 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 12<sup>th</sup> day of January 2024



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## Background

1. On 11 August 2023, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Data Protection Commission (“the **DPC**”) concerning MTCH Technology Services 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. Following the suspension of their account, the Data Subject emailed the Respondent on 28 July 2023, to request erasure of their personal data. The Respondent replied on the same day advising that it had suspended the Data Subject’s account due to a violation of its Terms of Service and Community Guidelines.
  - b. In their reply of 1 August 2023, the Data Subject re-iterated their request for erasure of their personal data and sought clarification from the Respondent as to why it retains personal data following the ban on their account. On 15 August 2023, the Respondent advised the Data Subject that it retains account information of banned accounts to prevent banned members from creating new accounts and cited legal reasons for the retention of this data.
  - c. As the Data Subject was not satisfied with the response provided by the Respondent, they lodged their 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 Respondent in relation to the subject matter of the complaint. The DPC first contacted the Respondent on 5 October 2023. Further to that engagement, it was established that the Data Subject's account was suspended due to a violation of the Respondent's Terms of Use and Community Guidelines. Following this suspension, it had retained the Data Subject's personal data in line with its data retention policy. In its reply to the DPC, the Respondent advised that following a recent change to its Community Guidelines it had lifted the ban on the Data Subject's account on 3 October 2023, and informed the Data Subject of this action on the same day. The Respondent noted that the Data Subject had paid a subscription to avail of the premium service of the platform when the ban occurred. In the circumstances, the Respondent offered a refund of the subscription for the length of time the ban was placed on the account as a gesture of goodwill, and communicated this offer directly to the Data Subject on 30 October 2023.
8. On 3 November 2023, the Respondent informed the DPC that it had not received a response from the Data Subject in relation to its offer of a refund.
9. On 6 November 2023, the DPC wrote to the Data Subject, outlining the information provided by the Respondent and its offer of a refund of the subscription. The DPC also requested the Data Subject notify it, within a specified timeframe, if they were not satisfied with the outcome, so that the DPC could take further action. The Data Subject replied on the same day, noting that the action taken by the Respondent had amicably resolved their complaint. In response, the DPC sought clarity from the Data Subject in relation to whether they availed of the refund offered by the Respondent.
10. On 13 November 2023, the Data Subject advised the DPC that they would accept the Respondent's offer of a refund. The DPC engaged with the Respondent on the same day,

confirming that the Data Subject accepted its offer of a refund. On 22 November 2023, the Respondent confirmed to the DPC that it had processed the refund of the subscription to the Data Subject.

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:



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Deputy Commissioner  
Data Protection Commission