

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 Commission Nationale de l'Informatique et des Libertés 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 12 MAY 2022**

Dated the 4th day of September 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Commission Nationale de l'Informatique et des Libertés (French SA) (“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) GDPR, the Recipient SA transferred the complaint to the DPC on 12 May 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject noticed that their Tinder account had been suspended and requested that the Respondent provide the reasons for the suspension. As the Respondent did not provide these reasons, the Data Subject submitted an access request pursuant to Article 15 GDPR on 27 November 2021.
 - b. The Respondent failed to address the access request and, accordingly, the Data Subject 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. On 17 January 2023, the DPC wrote to the Respondent formally commencing its investigation and requesting that it address the concerns raised.
8. In its responses, the Respondent explained that, since the complaint was first made to the Recipient SA, it had continued to engage with the Data Subject and that it had provided the Data Subject with a link on 21 July 2022, through which they could verify themselves and access their personal data. The Respondent also acknowledged the delay in responding to the initial access request and apologised to the Data Subject. The Respondent explained that the Data Subject initially had issues accessing their data. However, on 5 August 2022, the Data Subject confirmed that they had successfully accessed their data.
9. Despite having received their personal data via the link provided, the Data Subject also wanted to know the reasons why their account was suspended. The Respondent explained that it had responded to the Data Subject on this point, stating that it could not provide any more detailed information in that regard and directing the Data Subject to its Terms of Use (**Terms**) and Community Guidelines (**Guidelines**). In its response to the DPC, the Respondent explained that the Data Subject’s account had been banned for impersonation, in violation of both the Terms and the Guidelines. The Respondent further explained how the violation was identified and reviewed by its team.
10. In an effort to amicably resolve the complaint, the Respondent also offered to facilitate the creation of a new account for the Data Subject if the Data Subject was agreeable to this (subject to the requirement that they comply with the Respondent’s Terms and Guidelines in future).
11. In light of the explanations provided by the Respondent as set out above, as well as the fact that the Data Subject had now received their full access file, the DPC considered it appropriate to conclude the complaint by way of amicable resolution. As such, on 23 March 2023, the DPC wrote to the Data Subject (via the Recipient SA) proposing an amicable resolution to the complaint and asked the Data Subject to notify it, within a specified timeframe, if they were not satisfied with the outcome, so that the DPC could take further action. The DPC also noted

the Respondent's offer to facilitate the creation of a new account for them as outlined above. The Recipient SA confirmed that this letter issued to the Data Subject on 9 May 2023. On 14 June 2023, the Recipient SA confirmed that the Data Subject did not respond. Accordingly, the complaint has been deemed to have been amicably resolved.

12. On 21 June 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.

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:



Deputy Commissioner

Data Protection Commission