

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 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 13<sup>th</sup> day of December 2022



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 Data Protection Commission (“the **DPC**”) concerning Yahoo EMEA Limited (“the **Respondent**”).
2. The DPC was deemed to be the competent authority for the purpose of Article 56(1) GDPR.

## **The Complaint**

3. The details of the complaint were as follows:
  - a. The Data Subject submitted a delisting request to the Respondent on 26 January 2021. The URLs related to judicial proceedings the Data Subject had been involved in during September 2016. The Data Subject claimed the URLs in question contained inaccurate information and also contained personal information such as their name, full address, age and institutions where the Data Subject previously worked, and the name of their client, and;
  - b. The Data Subject was not satisfied with the response they received from the Respondent. The Respondent informed the Data Subject that it would not delist the URLs at issue, as it determined that the criteria to delist as outlined by the Court of Justice of the European Union was not met.

## **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 Data Subject, 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. In the circumstances, the Respondent took the following actions:
  - a. The Respondent agreed to conduct a further review of the Data Subject’s delisting request; and
  - b. Following a further review of the Data Subject’s delisting request, the Respondent agreed to delist the URLs which were the subject matter of their complaint.
8. On 17 September 2021, the DPC outlined the Data Subject’s complaint to the Respondent. On 23 September 2021, the Respondent informed the DPC that the Data Subject’s request for delisting was adjudicated at the time, and that the Respondent had determined that it could not delist the URLs, and outlined its reasoning behind its decision.
9. On 19 October 2021, the DPC wrote again to Respondent, requesting more detail behind its reasoning not to delist the URLs that were the subject matter of the Data Subject’s complaint. The DPC particularly sought the reasoning for the Respondent’s stated position that both the event which was the subject matter of the judicial proceedings and publication were much too recent to be considered as no longer relevant. On 28 October 2021, the Respondent responded to the DPC, outlining the objective criteria it uses when assessing delisting requests. The Respondent stated that it had reviewed the Data Subject’s request again and found that its original determination not to delist the URLs was appropriate. The DPC subsequently wrote to the Data Subject on 17 November 2021, detailing the Respondent’s position in relation to their complaint. In response, the Data Subject outlined their reasons for their dissatisfaction with the Respondent’s response.
10. The DPC subsequently engaged in further discussions with the Respondent regarding the Data Subject’s complaint. As a result, the Respondent confirmed that it would conduct a fresh review of the Data Subject’s delisting request, and provide the results of its assessment to the

DPC. On 17 February 2022, the Respondent informed the DPC that, following engagement with the DPC regarding the Data Subject's complaint, it had further escalated the Data Subject's request internally for fresh adjudication. During this fresh adjudication, the Respondent considered the Data Subject's personal circumstances, the nature of the offence and the passage of time. As a result, the Respondent determined that it would delist the URLs, and that it would notify the Data Subject of same.

11. On 25 February 2022, the DPC outlined the Respondent's response to the Data Subject and asked whether they considered their complaint to now be resolved. On the same date, the Data Subject responded to the DPC, seeking clarification regarding the delisting of the URLs. The DPC explained that the Respondent had confirmed that all URLs which were submitted for delisting by the Data Subject had been accepted for delisting, and that the Respondent was in the process of delisting the URLs. The Data Subject subsequently confirmed that they understood that the URLs would be delisted in due course. A subsequent search of the URLs which were the subject matter of the Data Subject's complaint showed that they no longer return following a search of the Data Subject's name in the Respondent's search engine. In the circumstances, the DPC asked the Data Subject to notify it, within one month, 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. 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**

13. 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.
14. 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 left.

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Deputy Commissioner

Data Protection Commission