

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 Österreichische  
Datenschutzbehörde 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 4<sup>th</sup> day of September 2023



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## **Background**

1. On 15 February 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Österreichische Datenschutzbehörde (“the **Recipient SA**”) concerning Yahoo 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 on 6 May 2021.

## **The Complaint**

3. The details of the complaint were as follows:
  - a. The Data Subject contacted the Respondent on 10 January 2021 requesting the delisting of certain URLs. The Data Subject had officially changed their last name in 2011, and their complaint concerned URLs returned against a Yahoo search of their former name. The content of these URLs related to criminal proceedings involving the Data Subject in 2010. These criminal proceedings were terminated without conviction in 2016, a fact not mentioned in the URLs.
  - b. On 19 January 2021, the Respondent responded to the Data Subject’s delisting request, stating that it would not delist the complained-of URLs due to the use of invalid search criteria. The Respondent stated that the search terms submitted (which included search terms additional to the Data Subject’s names) were too general and that a delisting request could only be made in respect of a Data Subject’s names (or variations of them).
  - c. The Data Subject was dissatisfied with the Respondent’s response and, on 15 February 2021, subsequently lodged a complaint with the Recipient SA. In addition, the Data Subject stated that one of the URLs in question had previously been accepted by the Respondent for delisting in 2020 but that this delisting did not appear to have been carried out.

## **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 identified in search results and the service provider responsible for providing those search results); 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 26 July 2022, the DPC wrote to the Respondent formally commencing its investigation and requesting the Respondent to explain its position in relation to the URLs identified in the complaint.
8. In response, the Respondent explained that the previously delisted URL, which the Data Subject was asserting was still returning, had in fact been delisted in 2020 against the particular search term submitted at the time. Regarding the remaining URLs, the Respondent explained that it had informed the Data Subject (in direct response to the delisting request made) that as they had included additional search terms other than their name(s) in the search criteria (in this case, place names), the returned URLs were not eligible for delisting against those search terms. However, following receipt of the DPC’s correspondence and in the interests of amicably resolving the matter, the Respondent agreed to proactively delist the requested URLs from appearing in search results when using the Data Subject’s previous legal name and their current legal name as search terms.
9. On 1 December 2022, the DPC wrote to the Data Subject via the Recipient SA, explaining the Respondent’s actions in response to the complaint and proposing an amicable resolution to the complaint on that basis. In the circumstances, the DPC asked the Data Subject to notify it,

within three weeks, if they were not satisfied with the outcome, so that the DPC could take further action. On 30 December 2022, the Recipient SA confirmed to the DPC that it had not received any further communication from the Data Subject within the specified timeframe. Accordingly, the complaint has been deemed to have been amicably resolved.

10. On 20 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.
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