

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 Garante per la protezione dei dati personali 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 5th day of September 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 7 February 2022, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Garante per la protezione dei dati personali (“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 26 August 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject submitted a request to the Respondent pursuant to Article 17 GDPR for a large number of URLs that they wished to have delisted from being returned in a search against their name. The content of these URLs related to a criminal conviction handed down to the Data Subject on 11 July 2016. The Data Subject stated that this conviction was declared extinguished in accordance with the relevant national law on 19 October 2021.
 - b. On 13 January 2022, the Respondent responded to the Data Subject explaining that it could not delist the complained-of URLs, as it was not provided with sufficient evidence to support the request. Furthermore, on 8 June 2022, the Respondent explained that it had determined that the complained-of URLs were not eligible for delisting, as they did not meet the criteria outlined by the Court of Justice of the European Union.

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 7 March 2023, the DPC wrote to the Respondent formally commencing its investigation and requesting that it address the concerns raised. The DPC emphasised the Data Subject’s assertions (as set out in their complaint) that they were not a public figure and that a significant length of time had passed since the conviction (which, as noted, had now been extinguished).
- 8. In response, the Respondent explained to the DPC that it had reviewed the complaint and conducted a reassessment of the original delisting request, notifying the Data Subject directly of same. The Respondent explained that 19 of the URLs identified in the complaint were eligible for delisting and that they had now been delisted. In addition, the Respondent explained that 17 of the URLs identified in the complaint were not returned in a search against the Data Subject’s name and as such, were not eligible for delisting. The Respondent also explained that 2 further URLs identified in the complaint were not associated with the Data Subject’s name, and therefore were not eligible for delisting.
- 9. Further, the Respondent explained that the complaint contained 13 URLs that had not previously been submitted to it for adjudication. As such, the Respondent had not been afforded the opportunity to consider these for delisting prior to being made aware of these in the complaint. Nevertheless, in the interests of reaching an amicable resolution in relation to the complaint, the Respondent had assessed these ‘net-new’ URLs and agreed to delist them as set out above.

10. The DPC noted that all of the URLs identified in the complaint which were eligible for delisting had now been delisted. On 25 April 2023, 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 a specified timeframe, if they were not satisfied with the outcome, so that the DPC could take further action. The Recipient SA confirmed that this letter issued to the Data Subject on 19 May 2023. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.
11. On 30 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.
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:



Deputy Commissioner

Data Protection Commission