

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 6th day of November 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 8 September 2022, [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 20 January 2023.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent on 28 August 2022 requesting the delisting of two 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. One of the URLs had been addressed in the context of a previous complaint handled by the DPC. In that complaint, the Respondent agreed to delist that URL against the search term submitted. However, the Data Subject had now submitted this URL using a different search term, consisting of the Data Subject’s former name preceded by an abbreviated form of the Data Subject’s title. Regarding the other URL, which was submitted in respect of the same search term, the Respondent had refused to delist on the grounds that there did not appear to be any connection between the name submitted and the URL.
 - c. The Data Subject was dissatisfied with the Respondent’s response and, accordingly, 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 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 3 July 2023, the DPC wrote to the Respondent formally commencing its investigation and requesting the Respondent to address the concerns raised.
8. In response, the Respondent noted that the first URL had been submitted to it previously but that it had never been submitted against the search term identified in the complaint (i.e. the Data Subject’s former name preceded by an abbreviated form of the Data Subject’s title). The Respondent stated that it was happy to accept this search term as a valid extension of the Data Subject’s name. However, the Respondent explained that the URL was no longer appearing at all within the search index which powers its search results in Europe, regardless of the search term used. As such, the DPC noted that this URL was no longer in issue in the complaint.
9. Regarding the second URL, the Respondent explained that this had initially been refused because there was no direct reference or inference to the Data Subject’s identity either in the URL or the web page content. However, the Respondent further explained that having reviewed the screenshots provided in the complaint and in the spirit of resolving the complaint amicably, it had now dereferenced that URL against the search term in question as requested by the Data Subject.

10. In light of the explanations provided and actions taken by the Respondent as set out above, the DPC considered it appropriate to conclude the complaint by way of amicable resolution. Accordingly, on 24 July 2023, the DPC wrote to the Data Subject via the Recipient SA, setting out the explanations provided and actions taken by the Respondent and notifying them that the DPC proposed to conclude the complaint by way of amicable resolution. 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 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 26 September 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
 - a. 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