

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

IMI Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Bayerisches Landesamt für Datenschutzaufsicht (Bavaria DPA) pursuant to Article 77 of the General Data Protection Regulation, concerning Aut O'Mattic A8C Ireland 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 ON 12 MAY 2022)**

Dated the 17th day of November 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 7 November 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with Bayerisches Landesamt für Datenschutzaufsicht (“the **Recipient SA**”) concerning Aut O'Mattic A&C Ireland 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) of the GDPR, the Recipient SA transferred the complaint to the DPC on 21 June 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent on 2 November 2021, requesting erasure of personal data concerning them, pursuant to Article 17 of the GDPR, contained in a blog post on the Respondent’s website, that had been uploaded by a third party user.
 - b. On 3 November 2021, the Respondent replied to the Data Subject’s request, advising them to contact the uploader directly with the erasure request. The Respondent also advised the Data Subject that it would be agreeable to forward their request to the uploader on the Data Subject’s behalf if they wished for it to do so.
 - c. As the Data Subject was not satisfied with the response received from the Respondent, they 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. Further to that engagement, on 17 October 2022, the Respondent advised the DPC that it indicated to the Data Subject that they should contact the uploader of the content in this case directly. The Respondent also confirmed that it would be willing to forward the Data Subject’s request to the uploader, in order to facilitate an amicable resolution in this case.
- 8. On 25 October 2022, the DPC wrote to the Data Subject, via the Recipient SA, providing them with this information and requesting that they notify the DPC within a stated timeframe, if they wished to proceed with the Respondent’s suggested amicable resolution proposal. On 10 January 2023, the Data Subject replied to the DPC, via the Recipient SA. This correspondence advised that the Data Subject wished to proceed with the Respondent’s proposal to contact the uploader of the content on the Data Subject’s behalf, to seek the content’s removal.
- 9. The DPC continued to engage with both the Data Subject and the Respondent in order to bring about an amicable resolution to the complaint.
- 10. Following further engagement with the Respondent, on 24 May 2023, the Respondent confirmed to the DPC that it liaised with the site owner who agreed to remove the Data Subject’s name and personal contact details from the post. Following this, on 29 May 2023, the Respondent provided a further update and confirmed that all instances of the personal data relating to the Data Subject had been removed. The DPC forwarded this confirmation to the Data Subject, via the Recipient SA, on the same day, seeking their views on the action taken by the Respondent. This correspondence requested that the Data Subject notify the DPC within a specified timeframe, if they were not satisfied with the action taken by the

Respondent, so that the DPC could investigate the matter further. The Recipient SA issued this correspondence to the Data Subject on 31 May 2023.

11. On 1 August 2023, the DPC was informed, via the Recipient SA, that the Data Subject was agreeable to the amicable resolution proposal and that the case can be closed.
12. On 15 August 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. On 14 September 2023, the Recipient SA confirmed receipt of the DPC correspondence, which had advised that the complaint was deemed withdrawn.
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