

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 Italian Data Protection Authority 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 2nd 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 Italian Data Protection Authority (“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 19 February 2021.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent in June 2019 and July 2019, submitting a number of URLs for delisting, pursuant to Article 17 GDPR. The Data Subject’s lawyer submitted a further delisting request on 5 March 2020. The contents of the URLs related to judicial proceedings that the Data Subject had been involved in, and which concluded with his full acquittal.
 - b. The Data Subject was not satisfied with the response received from the Respondent relating to their delisting requests submitted in June and July 2019. The Data Subject claimed they did not receive any response from the Respondent in relation to their delisting request submitted on 5 March 2020.

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, it was established that the Data Subject had not provided evidence of their full acquittal in their original delisting requests. In the circumstances, the Respondent took the following action:
 - a. Upon review of the evidence of the Data Subject's full acquittal, the Respondent reviewed the Data Subject's requests and agreed to delist all eligible URLs.
- 8. On 31 May 2021, the DPC outlined the Data Subject's complaint to the Respondent. On 24 June 2021, the Respondent responded to the DPC. The Respondent confirmed that the Data Subject submitted a delisting request on 21 June 2019 and that it had delisted the eligible URLs. The Respondent also stated that it had informed the Data Subject of this outcome via email; however, it did not receive a response. The Respondent also confirmed to the DPC that the Data Subject submitted another delisting request on 10 July 2019. The Respondent informed the DPC that it had requested that the Data Subject provide evidence of their acquittal in order to delist the complained of URLs; however, the Respondent stated it did not receive a response.
- 9. The Respondent also addressed the DPC's query regarding why it had not responded to the delisting request submitted by the Data Subject's lawyer on 5 March 2020. The Respondent informed the DPC that the Data Subject's lawyer appeared to have sent their correspondence, which included evidence of the Data Subject's full acquittal, to the Respondent's Italian entity, which had been dissolved. The Respondent stated that outside counsel for the dissolved entity had subsequently telephoned the Data Subject's lawyer to explain that the Respondent's Italian entity was dissolved, and that it was not the provider of the Respondent's search services in the EMEA region.

10. On 27 July 2021, the DPC wrote to the Data Subject via the Recipient SA. The DPC informed the Data Subject of its correspondence with the Respondent. The DPC informed the Data Subject that the Respondent had completed a manual search and, having cross-checked the search results with the Data Subject's delisting requests, it confirmed the eight URLs had now been dereferenced from appearing in a search for the Data Subject's name.
11. Prior to this, the DPC received a communication from the Data Subject via the Recipient SA on 23 July 2021, listing 4 further URLs for delisting, which were appearing following a search of the Data Subject's name. The DPC wrote to the Respondent on 26 July 2021, and requested that it consider these additional URLs for delisting. The Respondent informed the DPC on 11 August 2021 that the additional URLs were "redirect URLs", and therefore it was unable to delist them. However, the Respondent stated that, in the interest of resolving the complaint, it had taken the exceptional action of searching for the direct URLs which appear to link to the content of the additional URLs. The Respondent confirmed that it delisted the additional direct URLs from appearing in search results returned against the Data Subject's name.
12. On 14 September 2021, the DPC wrote to the Data Subject via the Recipient SA, outlining the Respondent's response. In the circumstances, the DPC asked the Data Subject to notify it, within two months, 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.
13. On 20 January 2022, 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.
14. 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

15. 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.

16. 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, appearing to read "Tom Delaney". The signature is written in a cursive, flowing style.

Deputy Commissioner

Data Protection Commission