

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 Bayerisches Landesbeauftragte für den Datenschutz (Bavarian SA) 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 13th day of March 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 17 September 2018, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Bayerisches Landesbeauftragte für den Datenschutz (“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 5 December 2018.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject asserted that they had been unable to access their Yahoo account since 22 May 2018. As a result, on 24 May 2018 they wrote to the Respondent, requesting access to their personal data, and the subsequent erasure of their data.
 - b. The Data Subject was not satisfied with the Respondent’s response to their requests.

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. On 30 August 2019, the Respondent outlined that it was necessary for the Data Subject's identity to be verified before it could provide the requested data and facilitate the subsequent erasure request.
8. Following further engagement with the Data Subject (via the Recipient SA) and the Respondent, the Respondent informed the DPC that the Data Subject had specifically requested that their account and associated data not be deleted until after they had received a DVD containing their data, after which they would confirm that their account and associated data could be deleted. The Respondent also advised the DPC that the Data Subject had requested further information in relation to third party processing.
9. The Respondent noted that it had posted the DVD containing the Data Subject's personal data to them on 2 March 2021, and had received a delivery confirmation. On 16 September 2021, the DPC explained to the Data Subject that the Respondent would delete their Yahoo account and personal data once it had received authorization to proceed from the Data Subject.
10. On 4 November 2021, the Data Subject outlined to the DPC that the Respondent had not addressed their queries relating to the possible sharing of their information with third parties. In response to further engagement with the DPC, on 24 January 2022 the Respondent wrote directly to the Data Subject, addressing their concerns regarding third party sharing of data. The Respondent confirmed that, based on the Data Subject's consent settings, it had not carried out any profiling on their account, nor had their personal data been shared with any third party for profiling purposes. The Respondent asserted that it had not actioned the erasure request yet, as it had not received explicit permission from the Data Subject to do so.
11. The DPC continued to engage with the Data Subject and the Recipient SA to ascertain whether there were any concerns they considered outstanding. On 8 June 2022, the Respondent provided the DPC with copies of correspondence exchanged with the Data Subject dated 31 May 2022 and 1 June 2022. The Respondent confirmed that the Data Subject had provided their explicit consent for the deletion of their account and all associated data, and that their erasure request had now been actioned.

12. On 30 August 2022, the DPC wrote to the Data Subject, outlining the Respondent's actions in relation to their complaint. 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 8 February 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.
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:



Deputy Commissioner

Data Protection Commission