

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 Datatilsynet (Norway DPA),
pursuant to Article 77 of the General Data Protection Regulation, concerning MTCH Technology
Services 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 10th day of November 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 22 March 2023, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Datatilsynet (“the **Recipient SA**”) concerning MTCH Technology Services 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 25 April 2023.

The Complaint

3. The details of the complaint were as follows:
 - a. Following the suspension of the Data Subject’s account on 16 February 2023, the Data Subject contacted the Respondent to seek clarification for the suspension on their account. The Respondent replied to the Data Subject later the same day, advising that the account in question had been suspended for a violation of the Respondent’s Terms of Use and Community Guidelines. The Respondent informed the Data Subject they would not be able to access their account or create new accounts in the future.
 - b. The Data Subject corresponded further with the Respondent in relation to the suspension on their account, however, they were not satisfied with the responses provided by the Respondent. As a result, on 22 March 2023, the Data Subject submitted an erasure request of all their personal data, under Article 17 of the GDPR.
 - c. On 22 March 2023, the Respondent replied to the Data Subject advising that it had taken steps to remove the account from being visible to others on the platform. On 23 March 2023, the Data Subject re-iterated their request for the deletion of their personal data. The Respondent advised it retains personal data to meet its legal obligations after account suspension.
 - d. 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. The DPC first contacted the Respondent on 13 July 2023. Further to that engagement, it was established that the Respondent had suspended the Data Subject's account due to a violation of the Respondent's Terms of Use and Community Guidelines. In its reply to the DPC, the Respondent advised it conducted a fresh review of the Data Subject's suspension and following this review and based on new information that had since come to light, it determined that the user who reported the Data Subject's account, was not a genuine user. In the circumstances, the Respondent agreed to take the following action:
- a. To lift the suspension, allowing the Data Subject to regain access to their account
 - b. To rectify the record of the ban, in line with Article 16 of the GDPR, to make it clear that the grounds for the ban were subsequently over-turned, and the ban on the account had been removed
 - c. To offer the Data Subject a six month free subscription to its platinum service as a gesture of goodwill

- d. To communicate the outcome of their review and the offer of goodwill directly to the Data Subject
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- 8. On 18 August 2023, the Respondent communicated the outcome of its review directly to the Data Subject and its offer of a free six month subscription to its platinum service. In their response to the Respondent, the Data Subject accepted the information provided and the gesture of goodwill. On 19 August 2023, the Respondent provided the DPC with a copy of the correspondence with the goodwill gesture that it had sent to the Data Subject, by way of proof.
 - 9. On 22 August 2023, the DPC's letter outlining the actions taken provided by the Respondent as part of the amicable resolution process issued to the Recipient SA, for onward transmission to the Data Subject. When doing so, the DPC noted that, the Data Subject had accepted the information provided by the Respondent and its gesture of goodwill, as such the dispute between the Data Subject and Respondent appeared to have been resolved. In the circumstances, the DPC asked the Data Subject to notify it, within a stated timeframe, if they were not satisfied with the actions taken by the Respondent, so that the DPC could take further action. The Recipient SA confirmed to the DPC that they issued this correspondence to the Data Subject on 24 August 2023.
 - 10. On 8 September 2023, the Recipient SA confirmed to the DPC, that no response had been received from the Data Subject.
 - 11. On 11 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
 - 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:

A handwritten signature in black ink, appearing to read "Tony Delaney". The signature is written in a cursive, flowing style.

Deputy Commissioner
Data Protection Commission