

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 Die Landesbeauftragte für den Datenschutz Niedersachsen (Lower Saxony 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 1st day of March 2024



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 1 April 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with Die Landesbeauftragte für den Datenschutz Niedersachsen (“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 16 September 2021.

The Complaint

3. The details of the complaint were as follows:
 - a. When creating an account on the Respondent’s platform, the Data Subject carried out technical tests to monitor the network traffic on the platform. Following an analysis of these tests, the Data Subject deleted their account and lodged a complaint with the Recipient SA. In their complaint, the Data Subject raised a number of GDPR concerns in relation to the processing activities of the platform, the personal data that is collected from users in their use of the platform and the information that is provided to users in the Respondent’s Privacy Policy.

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. Upon further assessment of the complaint, the DPC noted that documentation was missing and requested these documents from the Data Subject via the Recipient SA. Upon receipt of the requested documentation from the Data Subject, 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 Respondent had updated its systems since the Data Subject ran the technical tests on the platform and noted that some of the software that the Data Subject referred to in their complaint was no longer in use on the platform. The Respondent also advised the DPC that it previously engaged with the Data Subject prior to receiving communication from the DPC. In the circumstances, the Respondent provided further information to address the concerns raised by the Data Subject and to provide an enhanced level of understanding on the part of the Data Subject in relation to Respondent’s processing activities, and information provided in its Privacy Policy.
8. On 27 September 2023, the DPC’s letter outlining the information provided by the Respondent as part of the amicable resolution process issued to the Recipient SA, for onward transmission to the Data Subject. In the circumstances, the DPC requested that the Data Subject notify it, within a specified timeframe, if they were not satisfied with the information provided 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 21 November 2023.
9. On 18 December 2023, the Recipient SA confirmed to the DPC, that no response had been received from the Data Subject.
10. On 19 December 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 the same day, the Recipient SA confirmed receipt of the DPC correspondence, which had advised that the complaint was deemed withdrawn.
11. 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

12. 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.

13. 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