

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 Commission Nationale de l'Informatique et des Libertés (France 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 31<sup>st</sup> day of May 2024



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## **Background**

1. On 24 May 2020, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Commission Nationale de l'Informatique et des Libertés (“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 28 April 2022.

## **The Complaint**

3. The details of the complaint were as follows:
  - a. On 2 May 2020, the Data Subject emailed the Respondent to request erasure of their personal data, in accordance with Article 17 of the GDPR.
  - b. On 24 May 2020, the Respondent replied advising that after an account is deleted, data is erased in accordance with its privacy policy.
  - c. As the Data Subject was not satisfied with the response received from the Respondent, they lodged a complaint with the Recipient SA. As part of their complaint, the Data Subject noted that they no longer have access to their account as the account had been banned by the Respondent.

## **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 at the time the Data Subject created their account, the Data Subject had entered a date of birth, which did not meet the age requirements in order to use the platform. As a result, the Respondent placed a ban on the account. The Respondent advised the DPC that it had previous engagements with the Data Subject in relation to their erasure request. In the circumstances, the Respondent requested that the Data Subject provide a copy of their ID as proof that the Data Subject was over the age of 18 in order to lift the ban on the account.
8. The DPC engaged with the Data Subject and the Recipient SA to seek confirmation from the Data Subject that they met the age requirements of the platform in order to lift the ban on the account and proceed with their erasure request.
9. On 1 December 2023, the Recipient SA informed that DPC that the Data Subject had provided a copy of their ID to confirm they are over the age of 18 years of age. On 4 December 2023, the DPC confirmed to the Respondent that the Data Subject had provided proof of their age and requested the Respondent to proceed with the erasure request.
10. On 18 December 2023, the Respondent confirmed to the DPC it had lifted the ban on the Data Subject’s account. It also confirmed that the majority of the Data Subject’s personal data had been deleted. It further advised that it would retain certain personal data in line with its data retention policy.
11. On 27 December 2023, the DPC’s letter outlining the information provided by the Respondent, which included the deletion dates of the remaining personal data, as part of the amicable resolution process, issued to the Recipient SA for onward transmission to the Data Subject. In its correspondence to the Data Subject, the DPC requested that the Data Subject notify it, within a specified 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 12 January 2024.

12. On 17 January 2024, the Recipient SA informed the DPC that it had received a response from the Data Subject seeking confirmation from the Respondent that it had erased all of their personal data as part of their erasure request. The DPC engaged further with the Respondent in an effort to amicably resolve the complaint. On 31 January 2024, the Respondent advised that it could not prematurely delete all the personal data, citing legal reasons for the retention of the remaining limited personal data.
13. On 6 February 2024, the DPC's letter outlining the information provided by the Respondent, to address the Data Subject's additional concerns, as part of the amicable resolution process, issued to the Recipient SA for onward transmission to the Data Subject. In its correspondence to the Data Subject, the DPC requested that the Data Subject notify it, within a specified 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 7 February 2024.
14. On 12 March 2024, the Recipient SA confirmed to the DPC, that no response had been received from the Data Subject. On the same day 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 15 March 2024, the Recipient SA confirmed receipt of the DPC correspondence, which had advised that the complaint was deemed withdrawn.
15. 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**

16. 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.
17. 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, reading "Don Maguire". The signature is written in a cursive style with a large, looped initial "D".

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Deputy Commissioner  
Data Protection Commission