

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 Aut O'Mattic A8C Ireland 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 6th day of September 2024



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 30 May 2023, [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 Aut O'Mattic A8C Ireland 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 23 February 2024.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject wished to have their personal data deleted from an online post that was uploaded to the Respondent’s platform by a third party user. After not receiving a response from the third party user to their request to remove the post, the Data Subject made a complaint with the Recipient SA on 30 May 2023.
 - b. On 26 July 2023, the Recipient SA contacted the Respondent directly to request deletion of the Data Subject’s personal data. The Respondent advised the Recipient SA that the content in question did not violate its terms of service, and that it had contacted the third party user to request an update on the issue, but no reply had been received. In addition, it informed the Recipient SA that if the Data Subject wished to obtain a court order, which would direct the Respondent to remove the content in question, it would then reassess the matter.
 - c. As the Data Subject was not satisfied with the response received from the Respondent, they maintained that they wished to pursue their complaint and it was transferred to the DPC on 23 February 2024.

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, on 9 May 2024, the Respondent advised the DPC that in an effort to amicably resolve this matter, it would contact the third party who uploaded the data in question again, and request a response regarding the matter. In further correspondence, on 13 June 2024, the Respondent confirmed that as it did not receive any response from the third party involved regarding this issue, it would remove the Data Subject's personal data from its platform.
- 8. On 20 June 2024, the DPC's letter outlining the action taken by the Respondent 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 issued this letter to the Data Subject on 1 July 2024.
- 9. On the same day, the Recipient SA informed the DPC that the Data Subject was agreeable to the amicable resolution proposal. In their correspondence, the Data Subject also thanked the parties involved for their efficiency in resolving this matter.
- 10. On 10 July 2024, 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.

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