

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 Google 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 14<sup>th</sup> day of April 2023



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## Background

1. On 17 February 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 Google 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 9 February 2022.

## The Complaint

3. The details of the complaint were as follows:
  - a. The Data Subject initially emailed the Respondent on 09 January 2020, lodging an Article 17 GDPR erasure request to have content that was uploaded by a third party user, which contained the Data Subject’s personal data, removed from the Respondent’s YouTube platform.
  - b. The Respondent rejected the request for erasure on the basis that it did not deem the posted content to be in violation of their privacy guidelines.
  - c. 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 engaged with the Respondent on 6 May 2022. Further to that engagement, the Respondent advised that they had further reviewed the complaint and following this review, remained of the view that the videos should not be removed from the platform. The Respondent provided further information in respect of their stance that the content did not meet any grounds for removal from their platform.
  - a. In this regard, the Respondent noted that the content in question portrayed the Data Subject participating in a number of videos in which they are depicted as the main singer, or one of the main singers within each of the videos.
  - b. The Respondent further noted that the videos in question were uploaded by the other singer depicted in the videos, who has a right to freedom of expression through this medium.
  - c. As the Data Subject was still active within the music profession, the content was deemed to be of public interest and artistic values.
8. The DPC’s letter outlining the information provided by the Respondent as part of the amicable resolution process issued to the Data Subject on 26 August 2022 via the Recipient SA. In its correspondence, 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. On 23 November 2022, the Recipient SA confirmed that no response had been received from the Data Subject.
9. On 30 November 2022, 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.

10. On 16 December 2022, the Recipient SA acknowledged receipt of this correspondence.

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:



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Deputy Commissioner  
Data Protection Commission