

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

IMI Complaint Reference Number: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Hamburg Data Protection Authority pursuant to Article 77 of the General Data Protection Regulation, concerning Meta Platforms 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 12 MAY 2022**

Dated the 24th day of November 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 2 March 2020, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Hamburg Data Protection Authority (“the **Recipient SA**”) concerning Meta Platforms 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) GDPR, the Recipient SA transferred the complaint to the DPC on 5 May 2021.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent on 21 February 2020, requesting information about how the Respondent processes their personal data, and seeking access to any personal data specifically related to their use of the Respondent’s facial recognition technology.
 - b. The Data Subject was not satisfied with the response received from 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 the Respondent did not hold any facial recognition data in relation to the Data Subject. In the circumstances, the Respondent took the following actions:
 - a. The Respondent confirmed to the DPC that it does not hold any facial recognition data relating to the Data Subject; and
 - b. The Respondent provided the DPC with a copy of correspondence it had sent to the Data Subject directly on 20 August 2021, addressing their access request and confirming that it does not hold facial recognition data in relation to him.
8. On 28 July 2021, the DPC outlined the Data Subject’s complaint to the Respondent. The DPC requested that the Respondent write to the Data Subject responding to the substance of their access request and, in particular, address their concerns in relation to their facial recognition data.
9. On 20 August 2021, the Respondent responded to the DPC. The Respondent confirmed to the DPC that it had contacted the Data Subject directly regarding their request for access to their facial recognition data, and that it does not hold any facial recognition data in relation to them, as they have turned off the facial recognition setting on their account. The Respondent subsequently provided the DPC with a copy of correspondence sent to the Data Subject, in which it confirmed that it does not hold facial recognition data in relation to them, and providing further information on how its facial recognition technology operates.
10. On 24 September 2021, the DPC contacted the Data Subject via the Recipient SA. When doing so, the DPC noted that the Respondent had contacted the Data Subject directly and addressed their concerns in relation to their facial recognition data. The DPC informed the Data Subject that the Respondent had also stated that it had substantively addressed the balance of their original access request in its correspondence with them of 25 February 2020, including providing step-by-step instructions on how to access and download their data using its in house tools. In the circumstances, the DPC asked the Data Subject to notify it, within two

months, if they were not satisfied with the outcome, so that the DPC could take further action. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.

11. On 3 December 2021, 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:



Deputy Commissioner

Data Protection Commission