

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 Spanish 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 2nd day of December 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 8 March 2019, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Spanish 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 2 April 2019.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent requesting access to their personal data following the suspension of their Instagram account.
 - 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 Data Subject’s account was suspended for a serious violation of the Respondent’s Community Standards, but that the Respondent had provided the Data Subject with a burner link through which they could access their personal data. However, the Data Subject was experiencing issues with accessing the provided burner link. In the circumstances, the Respondent took the following actions:
 - a. the Respondent provided the Data Subject with a new burner link to access their personal data; and
 - b. the Respondent stated that if the Data Subject could not access the burner link at that time then it would generate a new link in order to enable access.
8. On 17 April 2019, the DPC outlined the Data Subject’s complaint to the Respondent. On 7 May 2019, the Respondent responded to the DPC, noting that it had provided the Data Subject with access to their personal data via a burner link, so the Data Subject could now download their data and proceed to delete their account by themselves, if they wished to do so.
9. On 4 September 2019, the DPC received correspondence from the Data Subject via the Recipient SA, stating that the Data Subject was unable to gain access to their account via the burner link provided by the Respondent. Subsequently, the DPC contacted the Respondent, outlining the Data Subject’s concerns. On 16 September 2019, the Respondent responded to the DPC and stated that it had issued the Data Subject with a new burner link to enable the Data Subject to download a copy of their data. The DPC subsequently informed the Recipient SA that the Respondent had confirmed that it had provided the Data Subject with a new burner link to access their data. On 20 August 2020, the Recipient SA informed the DPC that the Data Subject had not received any additional correspondence from the Respondent that allowed them to access their personal data.
10. On 2 March 2021, the DPC again outlined the Data Subject’s complaint to the Respondent, noting that the Data Subject maintained that they had not received any further

communication from the Respondent. The DPC requested that the Respondent provide more information on the reasons for the Data Subject's account disablement, and to provide an explanation as to why the Data Subject could not retrieve their personal data via the provided burner link.

11. On 1 April 2021, the Respondent informed the DPC that the Data Subject's account was suspended for a serious violation of its Community Standards. The Respondent stated that it had emailed the Data Subject at their provided email address on 13 September 2019, giving them a new burner link. The Respondent stated that it had not received any subsequent correspondence from the Data Subject indicating that they were experiencing issues using the burner link, and therefore could not speculate as to why they either did not receive the email or was otherwise unable to access the burner link provided to the Data Subject. The Respondent requested that the Data Subject confirm their email address and stated that it would issue them with a new burner link.
12. On 7 September 2021, the DPC received confirmation of the Data Subject's email addresses via the Recipient SA and subsequently provided them to the Respondent on 29 September 2021. On 29 October 2021, the Respondent informed the DPC that it had emailed the Data Subject at their email addresses and had provided them with a new burner link to enable them to access their personal data.
13. On 24 November 2021, the DPC wrote to the Data Subject via the Recipient SA and provided a summary of its investigation to date. The DPC informed the Data Subject that the Respondent had emailed them a new burner link using the updated email addresses provided by the Data Subject. The DPC informed the Data Subject that if they were unable to access the burner link at that time then the Respondent had stated that it could generate a new link in order to enable their access. 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.
14. On 9 August 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.
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:



Deputy Commissioner

Data Protection Commission