

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 Österreichische Datenschutzbehörde 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 30th day of December 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 15 December 2020, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with Österreichische Datenschutzbehörde (“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) GDPR, the Recipient SA transferred the complaint to the DPC on 29 December 2020.

The Complaint

3. The details of the complaint were as follows:
 - a. On 26 September 2020, the Data Subject contacted the Respondent, seeking the erasure of a number of reviews that had been posted about their business on the Google Maps platform by third party users.
 - b. In their response to the Data Subject, the Respondent noted that they were not in a position to remove the reviews, and that the Data Subject should request the removal of the disputed reviews by the individual(s) who posted the content.
 - c. As the Data Subject was not satisfied with the response received from the Respondent regarding the concerns raised, the Data Subject 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. Further to the DPC’s initial engagement with the Respondent on 19 April 2021, the Respondent advised that three of the five reviews that the Data Subject had sought the erasure of, were to be removed from the platform, as the Respondent had deemed these to be fake content. However, regarding the remaining two reviews, the Respondent noted that they would not remove these, as they did not infringe on any of their policies. In the circumstances, the Respondent agreed to take the following action:
 - a. The Respondent notified the DPC on 04 May 2021 that they had written to the Data Subject, confirming the deletion of the three aforementioned reviews.
8. The DPC wrote to the Data Subject in respect of this, in a letter that issued to them via the Recipient SA on 16 July 2021. This letter sought the views of the Data Subject on if the actions taken by the Respondent to this point were sufficient in resolving the matter. On 04 August 2021, the DPC received further correspondence from the Data Subject, indicating their dissatisfaction with the Respondent’s decision not to remove the remaining reviews.
9. On foot of this response from the Data Subject, the DPC corresponded further with the Respondent on 22 October 2021. The Respondent maintained their position in relation to the remaining two reviews in a response that the DPC received on 03 November 2021.
10. The DPC continued to engage further with the Respondent on behalf of the Data Subject, with the aim of reaching an amicable resolution to this complaint. On 29 June 2022, the Respondent noted that upon further review of the content in question, it opted to remove the remaining two reviews from its platform.

11. On 06 July 2022, the DPC wrote to the Data Subject, via the Recipient SA. 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 that they issued this correspondence to the Data Subject on 08 July 2022. On 07 October 2022, the Recipient SA confirmed that no response had been received from the Data Subject.
12. On 11 October 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.
13. 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

14. 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.
15. 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