

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Data Protection Commission pursuant to Article 77 of the General Data Protection Regulation, concerning Meta Platforms Ireland Limited (formerly Facebook 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 26 May 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR directly with the Data Protection Commission (“the **DPC**”) concerning Meta Platforms Ireland Limited (formerly Facebook Ireland Limited) (“the **Respondent**”).
2. The DPC was deemed to be the competent authority for the purpose of Article 56(1) GDPR.

The Complaint

3. The details of the complaint were as follows:
 - a. On 19 January 2021, the Data Subject contacted the Respondent, seeking the erasure of their personal data that had been uploaded by a third party user on to the Facebook platform. In their initial complaint, the Data Subject also noted that they had attempted to contact the third party publisher of the content, who refused to remove the reported content.
 - b. The Respondent reviewed the request and advised that they were unable to determine how the reported content went against their Community Standards in relation to image privacy. Accordingly, the Respondent refused to comply with the Data Subject’s request.
 - c. As the Data Subject was not satisfied with the response they received from the Respondent, the Data Subject made a complaint to the DPC.

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 and Respondent in relation to the subject matter of the complaint. Further to that engagement, on 16 August 2021, the Respondent advised that they had reviewed the complaint and following this review, they requested that the Data Subject provide direct URL links to the content in question. The DPC contacted the Data Subject, seeking this information. The Data Subject replied on 20 August 2021 and in their reply, they provided fourteen URL links.
8. The DPC provided these URL links to the Respondent on 22 October 2021. On 17 November 2021, the Respondent provided an update to the DPC, outlining that one of the links in question was no longer available on the Facebook platform. In respect of the other thirteen URL links, it was noted that the Respondent’s specialist team had reviewed the content in light of the claims made by the Complainant. The outcome of this review was that the specialist team did not find this content to be in violation of their Community Standards. As such, they noted that the content would not be removed from its platform.
9. The DPC informed the Data Subject of this on 03 December 2021. The Data Subject responded to the DPC on 03 January 2022, rejecting the Respondent’s assessment, and sought the full erasure of the reported content.
10. In an effort to amicably resolve the complaint in question, the DPC engaged in further correspondence with the Respondent seeking their cooperation in removing the personal data in question. Following this further engagement between the DPC and the Respondent, on 16 September 2022, the Respondent advised the DPC that, having reviewed the matter further, it had decided to restrict access to the remaining thirteen URLs. On the same date, the Respondent contacted the Data Subject directly, informing them that the content in question had been restricted, meaning that the content was no longer visible on the Facebook platform for users within the EEA and UK.

11. On 6 October 2022, the DPC wrote to the Data Subject seeking their views on the actions taken by the Respondent. In this correspondence, the DPC asked the Data Subject to notify it, within a stated timeframe, if they were satisfied with the removal of their personal data from the platform. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.
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