

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 Autoriteit Persoonsgegevens (Netherlands DPA) 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 14th day of April 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 18 August 2019, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Autoriteit Persoonsgegevens (“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 30 September 2020.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject submitted an access request to the Respondent in relation to their Instagram account. As part of their request the Data Subject requested specific information regarding how the Respondent processes their personal data.
 - 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.
8. On 1 February 2021, the DPC outlined the Data Subject's complaint to the Respondent. As part of the correspondence sent to the Respondent, the DPC asked the Respondent to address the specific questions that the Data Subject had raised as part of their access request. The Data Subject had requested information on what user segments they were placed in for advertising purposes, whether their phone number was present in any user lists; and sought information about how the Respondent processes and uses location-based data.
9. On 1 March 2021, the Respondent responded to the DPC, providing a copy of the correspondence it had shared with the Data Subject addressing their access request. In this correspondence to the Data Subject, the Respondent explained to the Data Subject that data related to their ads preferences could be accessed in an intelligible form in the "Ads Preferences", "Access Your Information", and "Download Your Information" sections of Instagram. The Respondent also noted that users could find information related to user segments by using the "Ads Preferences" tool under the "Categories used to reach you" and "Audience-based advertising" sections of Instagram, and their Activity Log.
10. Following an examination of the response provided by the Respondent, the DPC wrote to the Respondent again, noting that not all of the Data Subject's questions had been addressed, including their query regarding the user lists their phone number was present in. The DPC asked the Respondent to provide responses to the Data Subject's remaining questions. On 12 July 2021, the Respondent responded to the DPC, providing responses to the remaining questions.
11. On 29 December 2021, the DPC forwarded correspondence for the attention of the Data Subject to the Recipient SA, outlining the responses received from the Respondent. The DPC subsequently engaged further with the Recipient SA in relation to this complaint, and, on 27 January 2022, the DPC received confirmation from the Recipient SA that it issued the DPC's letter to the Data Subject on 17 January 2022.
12. On 16 May 2022, the DPC received a copy of the Data Subject's response from the Recipient SA, in which they rejected amicable resolution at this time, as they were not satisfied with the

level of detail in the Respondent's responses so far. Namely, the Data Subject was dissatisfied that they had only been presented with information about which advertisers they have been shown ads for, whereas they sought information about which exact segments they were included in, based on the information the Respondent processes about them. The Data Subject also expressed their dissatisfaction with the level of detail provided by the Respondent to their question about what user lists their phone number was included in, and what locations and movements the Respondent has kept track of in relation to them.

13. On 31 May 2022, the DPC wrote to the Respondent again, and outlined the Data Subject's concerns regarding the level of detail received from the Respondent in response to their requests. The DPC requested the Respondent to address the Data Subject's remaining concerns.
14. On 17 June 2022, the Respondent wrote to the DPC, noting that it had contacted the Data Subject directly in order to address their remaining concerns in full. The Respondent provided the DPC with a copy of the correspondence that it had issued directly to the Data Subject.
15. On 1 September 2022, the DPC wrote to the Data Subject via the Recipient SA. When doing so, the DPC noted that, with the Respondent having now addressed the outstanding concerns that were raised by the Data Subject, the dispute between the Data Subject and Respondent appeared to have been resolved. 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.
16. On 14 March 2023, 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.
17. 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

18. 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.

19. 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:

A handwritten signature in black ink, appearing to read 'Tony Delaney', written in a cursive style.

Deputy Commissioner

Data Protection Commission