

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 the Italian Data Protection Authority, Garante per la protezione dei dati personali 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 7th day of October 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 19 November 2020, Mr. [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Italian Data Protection Authority (“the **Recipient SA**”) concerning Meta Platforms Ireland Limited (formerly Facebook 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 08 March 2021.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject emailed the Respondent on 27 October 2020, to request erasure pursuant to Article 17 GDPR, of his personal data, which was uploaded to the Facebook platform by third parties without his consent.
 - b. The Respondent reviewed the request and determined that the Data Subject did not satisfy any of the criteria for erasure under Article 17 GDPR. Accordingly, the Respondent refused to comply with the Data Subject’s request.
 - 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 their local supervisory authority.

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 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 the 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 a large amount of the content reported by the Data Subject in their initial complaint was posted in violation of the Respondent's terms of use and community standards of their platform. This content was therefore erased from the platform. However, in tandem with this review, there were also multiple URL links identified where no action was taken by the Respondent to remove this content. In the circumstances, the Respondent agreed to take the following action:
 - a. The Respondent agreed to erase a number of pieces of content containing the Data Subject's personal data as it was deemed to have been posted in violation of the Respondent's community standards; and
 - b. The Respondent reviewed all URL links to content as provided by the Data Subject in their initial complaint. A number of these were deemed to not be in violation of community standards, or showed no evidence of unlawful processing, and therefore were not initially removed.
- 8. On 25 November 2021, the Data Subject communicated to the DPC via the Recipient Supervisory Authority that the scope of the complaint could be narrowed down to two remaining URLs that contained their personal data. In response to this, the DPC engaged further with the Respondent with the aim of having the erasure request fulfilled. On 09 December 2021, the Respondent confirmed to the DPC that the remaining content had been removed from their platform.
- 9. Following receipt of confirmation of erasure from the Respondent, the DPC wrote to the Data Subject. In a letter issued to the Recipient Supervisory Authority, for onward transmission to

the Data Subject, on 17 December 2021, the DPC requested confirmation from the Data Subject that the actions taken by the Respondent were sufficient to amicably resolve their complaint.

10. The DPC received confirmation on 14 June 2022 via the Recipient SA that the Data Subject was agreeable to the amicable resolution of their complaint, and that the file could be closed.
11. 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

12. 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.
13. 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.