

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 Austrian 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 21st day of October 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 10 July 2018, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Austrian 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 30 August 2018.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent via post on 8 June 2018, submitting an access request and an erasure request under both their current and former names. The Data Subject specified that their erasure request was to be actioned by the Respondent for both their current and former names.
 - 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 Data Subject, 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 his/her 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 Respondent could not find an account associated with the Data Subject’s details, as the Data Subject had not provided the email address or phone number associated with their account in their original correspondence. In the circumstances, the Respondent took the following actions:
 - a. The Respondent wrote to the Data Subject directly via post, requesting the further information required to enable it to locate their account.
 - b. The Respondent provided the Data Subject with instructions on how to use its self-service tools to access and download their personal data.
- 8. On 27 April 2020, the DPC contacted the Respondent, requesting it review the complaint documentation received and provide a substantive response to the Data Subject’s access and erasure requests. On 7 May 2020, the Respondent contacted the DPC, stating that it could not locate the Data Subject’s account, as they had not provided the email address or phone number associated with their account in their original correspondence. The Respondent confirmed it had written to the Data Subject directly to progress their requests.
- 9. On 5 June 2020, the DPC received further correspondence from the Data Subject in which they clarified they did not own a Facebook account, nor did they ever previously own one. Rather, the purpose of their request was to confirm that the Respondent did not hold any information in relation to their current or former names. The DPC forwarded this information to the Respondent on 23 September 2020. On 23 October 2020, the Respondent noted that it had conducted searches for the Data Subject’s current and former names, which produced numerous results. As such, it could not confirm whether any of these accounts were

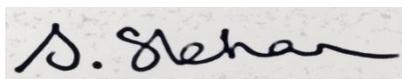
associated with the Data Subject without further information being provided, such as their email address or phone number.

10. On 31 March 2021, the DPC wrote to the Data Subject via the Recipient SA, outlining the information provided by the Respondent. In the circumstances, the DPC asked the Data Subject to notify it, within two months, if he/she was 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.
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:



Sandra Skehan
Deputy Commissioner