

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 Hamburgische Beauftragte für Datenschutz und Informationfreiheit (Hamburg 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 ON 12 MAY 2022)**

Dated the 22nd day of March 2024



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 30 July 2020, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Hamburgische Beauftragte für Datenschutz und Informationsfreiheit (“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) of the GDPR, the Recipient SA transferred the complaint to the DPC on 20 September 2023.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent in order to obtain the erasure of their account from the Instagram platform in July 2020, pursuant to Article 17 of the GDPR. Having received an unsatisfactory response, the Data Subject thereafter contacted the Recipient SA to lodge a complaint. In January 2023, the Recipient SA advised the Data Subject that the wrong channel had been used initially when lodging their complaint with the Respondent. The Recipient SA therefore advised that the Data Subject re-submit their complaint to the Respondent via the correct channels.
 - b. On 31 January 2023, the Data Subject submitted a further request for erasure to the Respondent under Article 17 of the GDPR as advised, for the erasure of their Instagram account, which they claimed they had lost access to.
 - c. In its response to the Data Subject of 31 January 2023, the Respondent stated that it could not assist the Data Subject with their issue any further, as it could not determine from the information provided if the Data Subject was in fact the account holder.
 - d. As the Data Subject was not satisfied with the response received from the Respondent, they therefore requested that the Recipient SA pursue their complaint further.

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. The DPC commenced this complaint with the Respondent on 2 November 2023. Further to that engagement, in its response of 16 November 2023, the Respondent provided the following information:
- a. The Respondent noted that it had certain reservations regarding the Data Subject’s claimed ownership of the account in question. As a result, and in an effort to amicably resolve the complaint, the Respondent confirmed that it had disabled the Instagram account in question, and that it was therefore no longer visible on the Instagram platform.
 - b. The Respondent also advised that it would contact the owner of the account, to inform them of the action taken, so they can appeal the decision. The Respondent stated that the owner would thereafter have 180 days from the date of the disablement to appeal, should they wish to do so, and otherwise the account in question would be scheduled for permanent deletion.
8. On 22 November 2023, the DPC’s letter outlining the information provided by the Respondent as part of the amicable resolution process issued to the Recipient SA, for onward transmission to the Data Subject. This letter issued to the Data Subject on 29 November 2023.

9. On 4 January 2024, the Recipient SA confirmed to the DPC that no response had been received from the Data Subject.
10. On 17 January 2024, 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. On 18 January 2024, the Recipient SA confirmed receipt of the DPC correspondence, which had advised that the complaint was deemed withdrawn.
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