

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 Agencia Española de Protección de Datos (Spain DPA) pursuant to Article 77 of the General Data Protection Regulation, concerning Apple Distribution International 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 16<sup>th</sup> day of February 2024



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## Background

1. On 9 February 2023, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Agencia Española de Protección de Datos (“the **Recipient SA**”) concerning Apple Distribution International 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 14 July 2023.

## The Complaint

3. The details of the complaint were as follows:
  - a. Upon discovering that an unauthorised third party had compromised their account, the Data Subject emailed the Respondent on 10 October 2022, to request erasure of their account, as they were unable to gain access to their account.
  - b. The Respondent replied on 14 October 2022, providing the Data Subject with a link to contact a member of their Technical Team to assist them with their account, and provided a further link to information as to how the Data Subject could download a copy of their data associated with their account.
  - c. As the Data Subject was not satisfied with the response received from the Respondent, they lodged a complaint with the Recipient SA.

## 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 first contacted the Respondent on 11 September 2023. Further to that engagement, it was established that the Respondent did not receive a reply from the Data Subject to its correspondence of 14 October 2022, and considered the matter resolved at the time. Upon receipt of the complaint, the Respondent acknowledged that the Data Subject now wished to proceed with their erasure request. In the circumstances, the Respondent agreed to review the account to determine whether the account was eligible for deletion and proposed to contact the Data Subject directly to assist with their erasure request. On 22 September 2023, the DPC agreed to the Respondent’s proposal, and requested the Respondent provide an update to the DPC on its engagement with the Data Subject.
8. On 20 October 2023, the Respondent informed the DPC that on 6 October 2023, the Data Subject had confirmed that they agreed to the deletion terms and as a result, the Respondent initiated the deletion of the account. The Respondent confirmed to the DPC in its update of 20 October 2023, that the account had been deleted and that it would communicate this directly to the Data Subject.
9. On 23 October 2023, the DPC wrote to the Data Subject, via the Recipient SA, informing them that their account was now deleted. In the circumstances, the DPC requested that the Data Subject notify it, within a specified timeframe, if they were not satisfied with the action taken by the Respondent so that the DPC could take further action. The Recipient SA confirmed to the DPC that they issued this correspondence to the Data Subject on 27 October 2023.
10. On 1 December 2023, the Recipient SA confirmed to the DPC, that no response had been received from the Data Subject.

11. On 4 December 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.
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:



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Deputy Commissioner  
Data Protection Commission