

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 Office of the Data Protection Ombudsman (Finland 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 15th day of November 2024



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 16 April 2020, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Office of the Data Protection Ombudsman (“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 11 January 2024.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent on 1 April 2020, to request erasure of their personal data in accordance with Article 17 of the GDPR. In their request, the Data Subject advised that they had difficulty in gaining access to their account.
 - b. On 6 April 2020, a member of the Respondent’s Specialist Care team contacted the Data Subject to assist them in regaining access to their account; however, this was unsuccessful. On 15 April 2020, the Respondent provided the Data Subject with a link to its Privacy Portal where they could log their deletion request. However, the Data Subject was unable to log the request, as it required them to login to 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. Further to that engagement, it was established that as the Data Subject was unable to gain access to their account, the Respondent could not verify that the Data Subject was the account holder and therefore could not proceed with the deletion 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. 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 7 June 2024, the DPC received a response from the Respondent. This outlined that, on 31 May 2024, the Data Subject 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 21 June 2024, that the account had been deleted, and that it would communicate this directly to the Data Subject.
- 9. On 24 June 2024, the DPC wrote to the Data Subject, via the Recipient SA, informing them that their account was now deleted in line with their erasure request. 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 24 July 2024. As part of its update to the DPC, the Recipient SA advised that the Data Subject had contacted them on 5 July 2024 to inform them that their erasure request had been fulfilled by the Respondent.

10. On 26 July 2024, the Recipient SA informed the DPC that the Data Subject was agreeable to the amicable resolution proposal. On 29 July 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. Later that day, the Recipient SA acknowledged receipt of the DPC's letter.
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