

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Data Protection Commission pursuant to Article 77 of the General Data Protection Regulation, concerning Airbnb Ireland UC

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 25<sup>th</sup> day of September 2023



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## **Background**

1. On 16 June 2019, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Data Protection Commission (“the **DPC**”) concerning Airbnb Ireland UC (“the **Respondent**”).
2. The DPC was deemed to be the competent authority for the purpose of Article 56(1) GDPR.

## **The Complaint**

3. The details of the complaint were as follows:
  - a. The Data Subject contacted the Respondent on 1 April 2019 requesting access to their personal data. The access request was made in the context of an ongoing but separate dispute between the Data Subject and the Respondent.
  - b. The Data Subject verified their identity for the purposes of the access request on 13 May 2019. The Respondent then explained that, due to the size and complexity of the request, it required an extension of time to provide the personal data pursuant to Article 12(3) GDPR.
  - c. The Data Subject was not satisfied with the response and, accordingly, lodged a complaint with the DPC seeking access to their data.

## **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 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 and Respondent in relation to the subject matter of the complaint. In response to the queries raised over the course of the DPC’s investigation, the Respondent explained that on 13 August 2019 it had provided the Data Subject with their data in four encrypted Excel documents in four separate emails due to the size of the Data Subject’s file and their inbox capacity. The Data Subject then stated (on 18 September 2019) that they did not have access to Excel and requested the files be resent in PDF format. Although the Respondent was satisfied that the provision of data via Excel was compliant with its legal obligations under Article 12(1) GDPR, it nonetheless agreed to provide the access files to the Data Subject in PDF format also. However, the Data Subject asserted that the PDF format access files provided were not comprehensible, and requested a more comprehensible version. In response, the Respondent provided an explanatory note which would enable the Data Subject to better understand their access files. However, the explanatory note was provided in relation to the original Excel files, rather than the PDFs.
8. This appeared to have been the result of a miscommunication. Having received their original Excel files, the Data Subject had stated that they were able to access these files. However, as it transpired, the Data Subject was only able to access the Excel files in a public library and therefore did not consider that they had access to Excel and so remained dissatisfied with the format the files were provided in. The Data Subject also stated that, having reviewed the Excel files provided in the public library, they considered that certain data (such as call transcripts and email chains with the Respondent) appeared to be missing.
9. The DPC continued to engage extensively with the Respondent and the Data Subject in attempt to resolve this complaint. The DPC requested that the Respondent address the Data Subject’s concerns in relation to the files that the Data Subject claimed to be missing from the data provided. In response, the Respondent explained that certain data were excluded or redacted where they related to names and contact details of the Respondent’s employees, “*very limited instances*” of opinions given in confidence, and information protected by legal privilege.

10. Most recently, on 10 March 2023, the Respondent wrote to the DPC proposing a settlement offer to the Data Subject in the interest of achieving an amicable resolution of the complaint. The DPC considered the Respondent's proposal and weighted this against the actions taken by the Respondent to date in response to the DPC's investigation. In particular, the DPC noted that the Data Subject had been provided with their personal data, both in Excel and PDF formats, and that the Respondent had fully explained why certain limited data was not included in the access files provided. The DPC also had due account of the fact that the access request appeared to be secondary to the wider ongoing dispute between the Data Subject and the Respondent, which related to customer service issues. As such, and having carefully considered all the foregoing factors, the DPC considered that it was appropriate to conclude the complaint by way of amicable resolution.
11. On 15 March 2023, the DPC wrote to the Data Subject informing them of the settlement offer made by the Respondent and proposed to conclude the complaint by way of amicable resolution. In the circumstances, the DPC asked the Data Subject to notify it, within a specified timeframe, if they were not satisfied with the outcome, so that the DPC could take further action. The Data Subject responded on the same date, agreeing to the Respondent's proposal. Accordingly, and following subsequent confirmation received by the DPC (from both parties) as to the performance of the settlement referred to above, the complaint has been deemed to have been amicably resolved.
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:

A handwritten signature in black ink that reads "Tony Delaney". The signature is written in a cursive style with a large, prominent 'T' and 'D'.

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Deputy Commissioner

Data Protection Commission