

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 Berlin Commissioner for Data Protection and Freedom of Information 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 ON 12 MAY 2022)**

Dated the 28th day of April 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 09 November 2020, [REDACTED] (“the **Data Subject**”) initially lodged a complaint pursuant to Article 77 of the GDPR with the North Rhine-Westphalia DPA, which was subsequently forwarded to the Berlin Commissioner for Data Protection and Freedom of Information (“the **Recipient SA**”) concerning Airbnb Ireland UC (“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 06 April 2021.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent in June 2019 to request, pursuant to Article 17 GDPR, the deletion of his Airbnb account held with the Respondent.
 - b. In response to the Data Subject’s erasure request, the Respondent asked the Data Subject on 5 June 2019 to verify his identity by providing a copy of his official identification. The Data Subject complied with this request.
 - c. The Data Subject did not receive any response from the Respondent, nor was the account deleted in accordance with the Data Subject’s request. On this basis, the Data Subject 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 the Respondent in relation to the subject matter of the complaint. Further to that engagement, it was established that the Data Subject had created an account with the Respondent and then subsequently sought to delete that account. On foot of this request, the Respondent requested that the Data Subject verify his identity and authenticate his request by providing a copy of proof of identity. The Data Subject submitted the documentation sought but did not receive confirmation from the Respondent that the data had been deleted.
8. The DPC thereafter engaged with the Respondent on this matter on behalf of the Data Subject, to bring about an amicable resolution to this complaint.
9. On 14 July 2022, in its response to the DPC, the Respondent confirmed that after having reviewed the matter, it had identified that some internal errors had arisen in processing the Data Subject’s erasure request, and as such, the request had not been processed. The Respondent also confirmed that the account would be deleted and apologised for any inconvenience caused to the Data Subject.
10. On 22 July 2022, the Respondent confirmed to the DPC that the erasure of the account had been completed.
11. On 26 July 2022, the DPC issued correspondence to the Recipient SA, for onward transmission to the Data Subject, providing confirmation that the requested account had been deleted. In this correspondence, the DPC requested that the Data Subject notify it, within a stated timeframe, if they were not satisfied with the actions taken by the Respondent, so that the DPC could consider the matter further. The Recipient SA issued this correspondence to the Data Subject on 2 August 2022.

12. On 11 November 2022, the Recipient SA advised the DPC that they did not receive any further communication from the Data Subject.
13. On 17 November 2022 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.
14. The DPC subsequently received a response from the Recipient SA on 3 January 2023, in which the SA raised a query regarding the DPC's correspondence of 17 November. The DPC responded to the Recipient SA's concerns on 9 March 2023, clarifying the timeline of events. In this regard, the DPC noted that the Data Subject had not replied to the correspondence from the DPC, which the Recipient SA had issued to the Data Subject on 16 August 2022.
15. 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

16. 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.
17. 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