

**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 Bayerisches Landesamt für  
Datenschutzaufsicht (Bavaria 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 June 2023



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## Background

1. On 2 March 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Bayerisches Landesamt für Datenschutzaufsicht (“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 20 August 2021.

## The Complaint

3. The details of the complaint were as follows:
  - a. The Data Subject contacted the Respondent by telephone on 29 December 2020 to request erasure of their account. While assisting the Data Subject, the Respondent became aware that the Data Subject was unable to log in to their account. This was due to the fact the Data Subject could not remember the answers they had previously provided to the security questions when creating their Apple account. As such, the Respondent informed the Data Subject the account could not be deleted at that time, as the identity of the account owner could not be verified.
  - b. The Data Subject subsequently emailed the Respondent on 2 January 2021 outlining their previous contact with the Respondent and re-iterated their request to erase their account and personal data. The Data Subject did not receive a response from the Respondent.
  - c. As the Data Subject did not receive a response 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 his/her 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 the Respondent had no record of the Data Subject’s email of the 2 January 2021. The Respondent also advised the DPC that in order for it to action the Data Subject’s request, it needed to be able to verify that the Data Subject was the owner of the account, without compromising its security measures. The DPC engaged further with the Respondent setting out criteria that the Respondent could consider in relation to the erasure of the account. In the circumstances, the Respondent agreed to take the following actions:
- a. The Respondent agreed to review its position on deletion requests in the context of where a user is unable to access their account.
  - b. To consider what additional supports would be required to enable users in specified circumstances to have their request processed without compromising the Respondent’s security obligations.
8. On 12 August 2022, the Respondent informed the DPC that it was continuing to review the Data Subject’s account in a bid to help the Data Subject regain access to their account. On 27 October 2022, the Respondent informed the DPC that following this review, the Data Subject’s account was eligible for deletion and the Respondent began the process to delete the account.
9. On 21 December 2022, the Respondent informed the DPC that while they had contacted the Data Subject directly to confirm that they agreed to the deletion terms, they had not received

a response from the Data Subject. The DPC wrote to the Data Subject via the Recipient SA on 18 January 2023 outlining the steps taken by the Respondent and on 23 February 2023, the Data Subject informed the DPC, via the Recipient SA, that they had responded to the Respondent's email to confirm they agreed to the deletion terms.

10. On 3 March 2023, the DPC engaged with the Respondent confirming that the Data Subject agreed to the deletion terms. The DPC also requested the Respondent to proceed with the deletion of the account.
11. On 10 March 2023, the Respondent informed the DPC that the Data Subject's account had been deleted on 6 March 2023. The DPC wrote to the Data Subject, via the Recipient SA on the same day 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 information provided by the Respondent so that the DPC could take further action. The Recipient SA confirmed that they issued this update to the Data Subject on 14 March 2023.
12. On 28 March 2023, the Recipient SA informed the DPC that the Data Subject confirmed the action taken by the Respondent had resolved their complaint and thanked the DPC for their assistance in resolving the matter.
13. On 29 March 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. On 30 March 2023, the Recipient SA confirmed receipt of the DPC correspondence, which had advised that the complaint was deemed withdrawn.
14. 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**

15. 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.

16. 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 "Tom Delaney". The signature is written in a cursive, flowing style.

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Deputy Commissioner  
Data Protection Commission