

**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 Microsoft Ireland Operations 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 12 MAY 2022**

Dated the 15th day of December 2022



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## Background

1. On 10 May 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Data Protection Commission (“the **DPC**”) concerning Microsoft Ireland Operations Limited (“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 27 March 2020 and submitted a delisting request pursuant to Article 17 GDPR. The URLs at issue are newspaper articles that relate to the Data Subject’s 2019 criminal conviction for the offence of indirect corruption. This conviction occurred in the Slovak Republic, where the payment of the financial penalty effectively eradicates the conviction and the perpetrator is treated as if they had never been convicted.
  - b. The Data Subject was not satisfied with the response received from the Respondent. The Respondent stated that there was an important public interest involved in accessing this information and as the content was accurate, it should be in the public domain.

## 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 the circumstances, the Respondent took the following actions:
  - a. The Respondent agreed to re-evaluate the Data Subject’s delisting request; and
  - b. The Respondent agreed to delist the complained of URLs.
8. On 4 October 2021, the DPC outlined the Data Subject’s complaint to the Respondent. The DPC provided the Respondent with a list of the complained of URLs and the necessary complaint documentation to assist it with its examination of the complaint. The DPC requested that the Respondent outline the reason why the Data Subject’s delisting request was refused.
9. On 18 October 2021, the Respondent responded to the DPC. The Respondent stated that it re- reviewed the Data Subject’s delisting request and maintained its position that the URLs should not be blocked under the Article 17 GDPR Right to Be Forgotten.
10. The DPC subsequently engaged in communications with the Slovakian Data Protection Authority, including on the effect the payment of a financial penalty has on the status of a conviction under Slovakian law, and held detailed discussions with the Respondent concerning the complaint. On 14 February 2022, the Respondent informed the DPC that following a re-evaluation of the Data Subject’s request, it would now delist the URLs.
11. The DPC wrote to the Data Subject on 24 February 2022. When doing so, the DPC noted that, as the URLs which were the subject matter of the complaint had been delisted, the dispute between the Data Subject and Respondent appeared to have been resolved. In the circumstances, the DPC asked the Data Subject to notify it, within two months, if they were not satisfied with the outcome, so that the DPC could take further action. The DPC did not

receive any further communication from the Data Subject and, accordingly, 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:



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Deputy Commissioner

Data Protection Commission