

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

IMI Complaint Reference Number: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the French Data Protection Authority 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 13th day of December 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 9 December 2019, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the French Data Protection Authority (“the **Recipient SA**”) concerning Microsoft Ireland Operations 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) GDPR, the Recipient SA transferred the complaint to the DPC on 11 June 2020.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject submitted a delisting request pursuant to Article 17 GDPR to the Respondent. The Data Subject sought to have one URL delisted from being returned on a Bing search against their name.
 - b. The URL set out the remuneration the Data Subject was to be paid for their role as Chief Commissioner and Director General of the Armed Forces Commissary.
 - c. The Data Subject was not satisfied with the response received from the Respondent.

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 the Respondent had originally rejected the Data Subject’s delisting request as the information was posted on an official government website. However, upon a further review the Respondent confirmed that the URL which was the subject matter of the Data Subject’s complaint now returns an error message when accessed. In the circumstances, the Respondent took the following actions:
 - a. The Respondent provided the DPC with information on why the original request was rejected and why the Respondent believed that it was of public interest not to delist the request. The Respondent stated that the information was posted on an official government website, which it considered to be of public interest.
 - b. The Respondent noted that the URL now returns as a 404 error message when accessed and therefore it would delist the URL.
8. On 20 April 2022, the DPC outlined the Data Subject’s complaint to the Respondent, noting that the Data Subject sought to have one URL delisted from being returned in a Bing search against their name. The DPC outlined to the Respondent that the content of the URL related to a French Ministry of Economy and Finance decision of 10 May 2017, which set out the remuneration the Data Subject was to be paid for their role as Chief Commissioner and Director General of the Armed Forces Commissary. The information was entered into the official bulletin of the French Ministry, and consequently published on the URL at issue.
9. On 4 May 2022, the Respondent confirmed to the DPC that it had originally rejected the URL as it related to information posted on a government website. However, following a further review the Respondent confirmed that the URL in question now returned an error message when accessed, and would therefore be delisted. The DPC subsequently conducted its own Bing search against the Data Subject’s name on 5 May 2022, which showed that the URL that was the subject matter of the complaint was no longer being returned. On 26 June 2022, the

DPC wrote to the Data Subject, via the Recipient SA, outlining the Respondent's response. In the circumstances, the DPC asked the Data Subject to notify it, within 2 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.

10. On 19 October 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.

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