

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 Berliner Beauftragte für Datenschutz und Informationsfreiheit (Berlin DPA) pursuant to Article 77 of the General Data Protection Regulation, concerning TikTok Technology 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 6th day of July 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 2 December 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with Berliner Beauftragte für Datenschutz und Informationsfreiheit (“the **Recipient SA**”) concerning TikTok Technology 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 16 May 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. On 21 October 2021, the Data Subject, via their lawyer, submitted an access request to the Respondent pursuant to Article 15 GDPR.
 - b. The Data Subject stated that no response was received to the request and submitted a complaint to the Recipient SA on 2 December 2021.

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. On 21 November 2022, the DPC wrote to the Respondent to formally commence its investigation into the complaint, and requested the Respondent address the concerns raised.
8. In its response of 19 December 2022, the Respondent explained that it had responded to the access request on 10 November 2021 and provided the DPC with a copy of this response. The Respondent explained that, from the wording of the request, it was not readily apparent that the Data Subject was requesting access to their personal data but rather that they were requesting information about how their data was processed. As such, the Respondent responded to the request as a request for information.
9. The Respondent explained that, on 14 December 2022 and on foot of the DPC’s investigation, the Respondent wrote to the Data Subject via email to explain the above and provided a copy of its response of 10 November 2021. The Respondent advised the Data Subject how they could access their data via the TikTok app. Alternatively, the Respondent invited the Data Subject to respond directly to its email and it would attend to the request without delay.
10. On 18 January 2023, the DPC wrote to the Data Subject via the Recipient SA in relation to the Respondent’s response above. In its letter, the DPC noted the clarifications provided by the Respondent and that the Data Subject’s concerns regarding access to their data appeared to have been addressed. 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.
11. The Recipient SA confirmed to the DPC that this correspondence was sent to the Data Subject on 25 January 2023. On 7 March 2023, the Recipient SA confirmed to the DPC that no response had been received from the Data Subject.
12. On 24 May 2023, 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 2018 Act and that it would conclude the case and inform the Respondent.

13. 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

14. 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.

15. 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