

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 Datatilsynet (Denmark 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 5th day of September 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 12 July 2019, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Datatilsynet (“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 28 August 2019.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject emailed the Respondent on 8 May 2019 to request erasure of their account. In response, the Respondent provided the Data Subject with a link to the self-service portal on the Respondent’s platform advising the Data Subject that they could use this link to delete their data. The Data Subject replied to the Respondent on 9 May 2019, advising that they were unable to use the self-service portal, as they could not log into their account. According to the Data Subject, this was due to the fact they could not remember the answers they had previously provided to the security questions.
 - b. On 10 May 2019, the Respondent advised the Data Subject to contact a member of its support team, so they could help them regain access to their account. The Data Subject replied to the Respondent’s offer by requesting the Respondent to action the erasure of their account instead. In response, the Respondent informed the Data Subject that as they could not verify the identity of the account holder, they could not delete the account.
 - c. As the Data Subject was not satisfied with the responses received 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 extensively with both the Data Subject (via the Recipient SA) and Respondent in relation to the subject matter of the complaint. Further to that engagement, the Respondent 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 in respect of requests for erasure, 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. Over the course of the handling of the complaint, the DPC engaged with the Data Subject to keep them informed of the progression of their complaint, in order to bring about an amicable resolution to the complaint.
9. On 12 August 2022, the Respondent informed the DPC that it was continuing to engage with the Data Subject in order to help them regain access to their account. On 30 March 2023, the

Respondent confirmed to the DPC that the Data Subject had provided the required information to enable it to verify the Data Subject as being the owner of the account. As a result of the verification, the Data Subject's account was eligible for deletion and the process to delete the account had been initiated.

10. On 17 April 2023, the Respondent informed the DPC that the Data Subject's account had been deleted on 14 April 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 25 April 2023.
11. On 10 May 2023, the Recipient SA confirmed to the DPC, that no response had been received from the Data Subject. On the same day, 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.
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:

A handwritten signature in black ink that reads "Tom Delaney". The signature is written in a cursive style with a large, prominent 'D'.

Deputy Commissioner
Data Protection Commission