

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 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 6th day of October 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 9 February 2022, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Data Protection Commission (“the **DPC**”) concerning Apple Distribution International Limited (“the **Respondent**”).
2. The DPC was deemed to be the competent authority for the purpose of Article 56(1) of the GDPR.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent via its web-form on 2 December 2021, to request erasure of their account. In response to the erasure request, on 3 December 2021, 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 via this tool. The Data Subject replied to the Respondent, advising that they were unable to use the self-service portal, as they could not login to 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. In their reply, the Data Subject also requested that the Respondent complete the erasure request on their behalf.
 - b. In response to the Data Subject on 6 December 2021, the Respondent informed the Data Subject that as it could not verify the identity of the account holder, it could not delete the account on their behalf. The Respondent also provided the Data Subject with a link to reset their password in order to help them regain access to their account. In this response, the Respondent also provided the Data Subject with information about the relevant Data Protection Authorities, should they wish to raise a complaint.
 - c. As the Data Subject was not satisfied with the responses received from the Respondent to their erasure request, they lodged a complaint with the DPC.

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 extensively with both the Data Subject 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 it could consider in relation to the erasure of the account. In the circumstances, the Respondent agreed to take the following actions:
- a. 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 specific 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 and the Respondent, in order to bring about an amicable resolution to the complaint. During this engagement, the Respondent advised that its systems had detected recent activity on the Data Subject’s account. As such the Respondent requested that the Data Subject log out of their account on all devices or applications, in order for it to establish whether the account

met the eligibility requirements for deletion. However, the Data Subject advised both the Respondent and the DPC that as they could not login to their account, they were unable to check if their account was still registered as logged-in on any of their devices or applications.

9. The DPC engaged further with the Respondent and requested that it monitor whether any new activity occurred on the Data Subject's account, in the time that had passed since the last activity was recorded on the account. On 29 May 2023, the Respondent agreed to conduct a fresh review of the Data Subject's account, and confirm to the DPC whether it could proceed with the deletion of the account given the time that had passed since the last activity recorded on the account.
10. On 14 July 2023, having conducted a fresh review, the Respondent confirmed to the DPC that the Data Subject's account was now eligible for deletion and it had contacted the Data Subject on 11 July 2023 to request confirmation that it could proceed with the deletion of the account.
11. On 24 July 2023, the Respondent informed the DPC that the Data Subject's account had been deleted, following confirmation it received from the Data Subject on 19 July 2023 to the deletion terms.
12. On 25 July 2023, the DPC wrote to the Data Subject informing them that their account had been 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 DPC did not receive any further communication from the Data Subject objecting to the amicable resolution of their complaint; accordingly, the complaint has been deemed to have been amicably resolved. On 18 August 2023, and in light of the foregoing, the DPC informed the Respondent that it would close the complaint in question.
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:

A handwritten signature in black ink that reads "Tom Delaney". The signature is written in a cursive style with a long, sweeping underline.

Deputy Commissioner
Data Protection Commission