

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 Google Ireland 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 September 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 16 March 2023, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Data Protection Commission (“the **DPC**”) concerning Google Ireland 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 received an email from the Respondent about an update to its Google Play Terms of Service. The Data Subject stated that they never signed up for any of the Respondent’s services using the email address to which the above email was received.
 - b. The Data Subject then wrote to the Respondent querying (i) how it obtained their name and email address; (ii) how it linked their name to the email address; and (iii) for what purposes it processed their name and email address.
 - c. The Respondent requested further information in order to respond to the queries above, which the Data Subject duly provided. However, no further response was received and, accordingly, the Data Subject submitted a complaint to 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 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. On 19 June 2023, the DPC wrote to the Respondent formally commencing its investigation and requesting that it address the concerns raised.
8. In its response, the Respondent explained that the Data Subject holds an active Google account in their name (that name having been inputted by the Data Subject at the time of the account creation), and that the email address in question was added as a secondary email address to this active account. The Respondent was able to confirm that the secondary email address had been manually added to the Google Account “*by a user who was signed into the Google Account from a device located in Belgium*” and provided the relevant date on which this was done (the DPC therefore understood that this secondary email address appeared to have been added by the Data Subject themselves). The Respondent further explained how the Data Subject could manage their email addresses and add or remove additional email addresses to and from their Google Account if they wished. The Respondent also explained that the secondary email was set up as a ‘contact email’ for the Data Subject’s account, and that the Respondent notifies the contact email address when there is important information its users need to know relating to their Google Account and/or the products and services they use. This was the reason why the email in question (about the update to the Respondent’s Google Play Terms of Service) was received by the secondary email address.
9. Regarding the purposes for which the Respondent processed the Data Subject’s name and email address, the Respondent explained that the Data Subject’s name is simply the name associated with the account and so it would be processed in the manner described in its Privacy Policy. In relation to the processing of the secondary email Address, the Respondent explained that this was processed (as the contact email address) in order to provide the Data Subject with notice of changes to the Google Play Terms of Service.

10. In addition, the Respondent addressed the delay in responding to the Data Subject's queries at the time they were first raised. The Respondent explained that, having obtained the additional information requested from the Data Subject, a delay arose due to human error which resulted in a delay reverting. The Respondent explained that it would protect against similar delays in future.
11. In light of the fact that the Respondent had now fully addressed each of the Data Subject's three queries, as well as provided an explanation for the delay in responding to those queries at the time they were first raised, the DPC considered it appropriate to conclude the complaint by way of amicable resolution. As such, on 28 July 2023, the DPC wrote to the Data Subject proposing an amicable resolution to the complaint. 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. On the same date (28 July 2023), the Data Subject responded to this letter confirming that they agreed to the amicable resolution of their complaint and that they did not seek any further action. 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:



Deputy Commissioner

Data Protection Commission