

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] v with the National Supervisory Authority for Personal Data Processing (Romania DPA) pursuant to Article 77 of the General Data Protection Regulation, concerning Dropbox International UC

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 18th day of September 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 13 September 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Romania DPA (“the **Recipient SA**”) concerning Dropbox International UC (“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 2 March 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject had previously held an account for 4 years until their subscription ended. The Data Subject attempted to access their account, but found that the account had been disabled, which they were subsequently informed was due to a serious infringement of the Respondent’s Terms of Service and Acceptable Use Policy. The Data Subject contacted the Respondent seeking access to their files and sought to identify which materials had triggered the disablement of their account.
 - b. In response, the Respondent explained that it could not provide the requested information as it was not legally permitted to do so. The Respondent further explained that its Terms of Service and Acceptable Use Policy prohibit the use of its services in conjunction with materials that are “*unlawfully pornographic or indecent*” or which “*violate the law in any way*”, and that the Data Subject’s account was determined to have been in violation of these policies.
 - c. The Data Subject was not satisfied with the Respondent’s response and, accordingly, submitted a complaint to 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 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 18 January 2023, the DPC formally commenced its investigation into the complaint and requested the Respondent to address the concerns raised.
8. On 16 February 2023, the Respondent responded to the DPC. The Respondent confirmed that the Data Subject’s account was suspended for a serious violation of its Terms of Service and Acceptable Use Policy. The Respondent provided the DPC, on a strictly confidential basis, with some further details of the nature of this violation. The Respondent explained its investigation and appeals process in relation to the disablement and noted that the Data Subject had appealed their account suspension on 22 June 2021. A trained content reviewer had reviewed the relevant content within the account and confirmed that the content in question had been accurately identified as constituting a serious infringement of its Terms of Service and Acceptable Use Policy. As such, the Data Subject was advised that the account could not be reinstated.
9. In addition, the Respondent explained that due to the time that had elapsed since the disablement, the account had since been permanently deleted in accordance with the Respondent’s standard retention timeframes in respect of disabled accounts. The Respondent therefore no longer held any data relating to the Data Subject, except for copies of its correspondence with the Data Subject in relation to their complaint. Nonetheless, the Respondent provided the DPC with a detailed explanation as to its reliance on Article 15(4) GDPR in refusing to provide access to the Data Subject’s personal data at the time of the access

request (on the basis that it would adversely affect the rights and freedoms of others), as well as the balancing test it was required to carry out in that regard. Based on the detailed explanations provided by the Respondent, the DPC was satisfied that the Respondent's reliance on Article 15(4) GDPR was appropriate.

10. In light of the detailed explanations provided by the Respondent as set out above, as well as the fact that, by now, only limited information existed in relation to the Data Subject's account, the DPC considered it appropriate to conclude the complaint by way of amicable resolution. Accordingly, on 8 June 2023, the DPC wrote to the Data Subject (via the Recipient SA) outlining the Respondent's response to the complaint and notifying them that the DPC proposed to conclude the complaint by way of amicable resolution. 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 5 July 2023, the Recipient SA confirmed to the DPC that no further communication had been received from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.
11. On 17 July 2023, 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
 - a. 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 long, sweeping underline that extends to the left.

Deputy Commissioner

Data Protection Commission