

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 Der Hamburgische Beauftragte für Datenschutz und Informationsfreiheit (Hamburg DPA) pursuant to Article 77 of the General Data Protection Regulation, concerning Meta Platforms Ireland Limited (formerly Facebook 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 ON 12 MAY 2022)**

Dated the 21st day of December 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 6 August 2020, [REDACTED] (“the **Data Subject**”) initially lodged a complaint pursuant to Article 77 of the GDPR with the Bavaria DPA, which was subsequently forwarded to Der Hamburgische Beauftragte für Datenschutz und Informationsfreiheit (“the **Recipient SA**”) concerning Meta Platforms Ireland 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 13 July 2023.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent on 12 March 2019, 25 June 2020 and again between February and May 2023, to request erasure of their Instagram account which they no longer had access to.
 - b. The Respondent requested further information from the Data Subject with the aim of verifying they were the rightful owner of the account in question. The Data Subject provided the requested information to the Respondent, but this action did not result in the account’s erasure from the Respondent’s platform.
 - c. As the Data Subject was not satisfied with the response 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 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. The DPC first engaged with the Respondent on 4 September 2023. Further to that engagement, it was established that the Respondent received the erasure request as well as the additional information provided by the Data Subject on multiple occasions between 2019 and 2023. The Respondent acknowledged the difficulties the Data Subject encountered in respect of their erasure request and apologised for the customer service it had provided in this regard. As a gesture of goodwill, the Respondent manually scheduled the account for permanent deletion.
- 8. On 4 October 2023, the DPC wrote to the Data Subject, via the Recipient SA, seeking their views on the action taken by the Respondent. The DPC also requested the Data Subject to notify it, within a specified timeframe, if they were not satisfied with the actions of the Respondent, so that the DPC could take further action. The Recipient SA confirmed that they issued this correspondence to the Data Subject on 5 October 2023.
- 9. On 10 October 2023, the Recipient SA informed the DPC that the Data Subject confirmed that the action taken by the Respondent had resolved their complaint, but wished to receive confirmation of the erasure having been completed.
- 10. On 10 November 2023, the Respondent advised the DPC that the account in question had permanently been deleted from its platform. This information was subsequently conveyed to the Recipient SA on 13 November 2023.
- 11. On 13 November 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. On the same day, the Recipient SA confirmed receipt of the DPC correspondence, which had advised that the complaint was deemed withdrawn.

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