

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 4<sup>th</sup> day of September 2023



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## **Background**

1. On 17 June 2022, [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. On 3 April 2022, the Data Subject made an access request to the Respondent pursuant to Article 15 GDPR following the suspension of their YouTube account. In particular, the Data Subject sought access to information about their YouTube playlists, subscriptions, comments, liked videos, and uploads.
  - b. The Respondent directed the Data Subject to the Google Takeout tool in order to access their information associated with their YouTube account. However, the Data Subject stated that they were unable to access their data using this tool. Accordingly, the Data Subject 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 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 3 November 2022, the DPC wrote to the Respondent formally commencing its investigation and requesting the Respondent to address the concerns raised.
8. The Respondent replied to the DPC, noting that it responded to the Data Subject’s request on 17 June 2022 and again on 22 August 2022, in an attempt to address the Data Subject’s issues. However, the Respondent stated that no response was received to those emails. The Respondent further explained that it had established that the Data Subject was in fact resident in the US on a full-time basis, that the Data Subject’s account had been created in the US, and that there was nothing to indicate that they had been or were currently based in the EU. The Respondent was therefore of the view that GDPR did not apply to this particular complaint, given that the processing in question was not carried out in the context of the activities of a controller or processor established within the EU, and nor did it relate to a data subject within the EU.
9. However, in order to amicably resolve the complaint, and noting also the fact that the Google Takeout tool was available to all users regardless of their place of residence, the Respondent agreed to engage with its US entity, Google LLC, in order to directly provide the Data Subject with their personal data through alternative avenues, rather than via Google Takeout. The Respondent advised that the Data Subject could continue to engage with its own access team who they had corresponded with previously in relation to the access request in the event that they had any further issues.
10. Following the Respondent’s engagement with Google LLC as referred to above, the Respondent provided assistance in relation to technical issues the Data Subject encountered in attempting to access their data. Ultimately, the Data Subject was provided with a copy of all of their personal data via a secure USB received via Google LLC by way of post to the Data Subject’s US address. The Data Subject confirmed receipt of their access file on 4 May 2023 and indicated that they were satisfied with same save for one file relating to comments made by them on other YouTube videos. The Data Subject stated that they were unable to identify

which videos in particular they had made comments on. On 15 May 2023, the Respondent (via Google LLC) reached out to the Data Subject directly in relation to this issue and agreed to provide them with a file containing the specific information sought.

11. In light of the fact that the Data Subject had now received their full access file, the DPC considered it appropriate to conclude the complaint by way of amicable resolution. The DPC also noted the efforts made by the Respondent (via Google LLC) to facilitate the Data Subject's access request despite the technical issues encountered and despite real questions as to the applicability of GDPR to the complaint at all. As such, on 30 May 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. The DPC did not receive any further communication from the Data Subject and, 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