

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 the Bayerisches Landesamt für Datenschutzaufsicht (Bavaria DPA) 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 14th day of June 2024



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 5 September 2023, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Bayerisches Landesamt für Datenschutzaufsicht (“the **Recipient SA**”) concerning Apple Distribution International 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 October 2023.

The Complaint

3. The details of the complaint were as follows:
 - a. On 21 August 2023, the Data Subject received an email noting that details had been changed on their account. On 5 September 2023, the Data Subject lodged a complaint with the Recipient SA, claiming that their account had been compromised by an unauthorised third party. As a result, they were unable to access their account and wished to have their account deleted by the Respondent.
 - b. Further to this, the Data Subject contacted the Respondent by telephone on 10 October 2023, to request the erasure of their account. While assisting them, the Respondent became aware that the Data Subject was unable to log in to their account as they claimed their account had been compromised. The Data Subject further advised that the answers to their security questions had been changed. The Respondent provided advice to the Data Subject on regaining control of their account and deleting it. The Data Subject wrote to the Respondent to have a written record of their request for the deletion of their account and to request a written transcript of their telephone call with the Respondent’s Support Agent, so they could pursue their complaint with their local supervisory authority.
 - c. On 10 October 2023, the Respondent advised that in order to proceed with the request for the transcript of the telephone call, they required confirmation that the Data Subject was the account holder. On 11 October 2023, the Data Subject verified their details and the Respondent provided the requested document via a secure link. The Data Subject replied on 12 October 2023, noting an issue in accessing the link.
 - d. On 12 October 2023, the Data Subject confirmed with the Recipient SA that they wished to pursue their complaint, providing the documents that they had received from the Respondent.

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 contacted the Respondent on 29 November 2023. Further to that engagement, it was established that the Respondent did not receive a further reply from the Data Subject to its correspondence of 12 October 2023. In the circumstances, the Respondent agreed to review the account to determine whether it was eligible for deletion, and proposed to contact the Data Subject directly to assist them with their erasure request. The DPC agreed to the Respondent's proposal and requested the Respondent provide an update to the DPC on its engagement with the Data Subject.
8. On 11 March 2024, the Respondent informed the DPC that on 24 February 2024, the Data Subject confirmed that they agreed to the deletion terms and as a result, the Respondent initiated the deletion of the account.

9. On 21 March 2024, the Respondent informed the DPC that the Data Subject's account had been deleted and it had communicated this action directly to the Data Subject. The DPC wrote to the Data Subject, via the Recipient SA, informing them that their account was now deleted. In its correspondence, the DPC requested the Data Subject notify it within a specified timeframe if they were not satisfied with the actions taken by the Respondent, so that the DPC could take further action. The Recipient SA confirmed to the DPC that they issued this correspondence to the Data Subject on 22 March 2024.
10. On 25 March 2024, the Recipient SA informed the DPC that the Data Subject confirmed the action taken by the Respondent had resolved their complaint.
11. On 2 April 2024, 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 10 April 2024, 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