

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 Commission Nationale de l'Informatique et des Libertés 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 18th day of November 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 25 May 2021, ██████████ (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Commission Nationale de l'Informatique et des Libertés (“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) GDPR, the Recipient SA transferred the complaint to the DPC on 16 July 2021.

The Complaint

3. The details of the complaint were as follows:
 - The Data Subject emailed the Respondent on 26 April 2019, to request the deletion of their Facebook account and personal data under Article 17 GDPR. The Data Subject received a response from the Respondent on the same day that the account would be scheduled for deletion on 26 May 2019. However, the Data Subject continued to receive correspondence from the Respondent after this date had passed.
 - As a result of this, the Data Subject thereafter lodged an access request, under Article 15 GDPR, to ascertain what personal data was held about them by the Respondent. This request was lodged on 12 May 2021, and the Data Subject was advised on the same day that no account pertaining to the Data Subject remained on the Respondent’s platform.
 - The Data Subject was dissatisfied with the response received from the Respondent, and believed that the Respondent had not fulfilled their requests. On this basis, the Data Subject lodged a complaint with their local supervisory authority.

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:

- The relationship between the Data Subject and Respondent (being, in this case, an individual consumer and a service provider); and
 - 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:
- 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
 - 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. Further to that engagement, it was established that no account pertaining to the Data Subject existed on the Respondent’s platform. However, the Respondent confirmed that the Data Subject had previously subscribed to marketing emails from a “*Meta for Developers*” mailing list. The Respondent advised that subscription to this mailing list, and the receipt of related marketing emails, were unconnected to the existence of a Facebook account, thus explaining why the Data Subject continued to receive correspondence from the Respondent. In the circumstances, the Respondent agreed to take the following action:
- The Respondent agreed to ensure that the Data Subject was fully opted-out from receiving such marketing emails, which would prevent them from receiving such emails or similar notifications in the future.
8. The DPC’s letter outlining the actions taken by the Respondent as part of the amicable resolution process issued to the Recipient SA on 03 May 2022, for onward transmission to the Data Subject. This letter issued to the Data Subject on 24 May 2022. In its correspondence to the Data Subject, the DPC requested that 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. On 08 September 2022, the Recipient SA confirmed that no response had been received from the Data Subject.

9. On 20 September 2022 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.
10. 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

11. For the purpose of Document 06/2022, the DPC confirms that:

- The complaint, in its entirety, has been amicably resolved between the parties concerned;
- The agreed resolution is such that the object of the complaint no longer exists; and
- 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.

12. 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