

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] with French Data Protection Authority (Commission Nationale de l'Informatique et des Libertés) pursuant to Article 77 of the General Data Protection Regulation, concerning Meta Platforms 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 13th day of June 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 21 February 2020, [REDACTED] (“**the Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with 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 20 July 2021.

The Complaint

3. The details of the complaint were as follows:
 - a. the Data Subject, who operated what they described as a “parodic” account on Instagram, noticed that their Instagram account had been disabled without any explanation.
 - b. The Data Subject made an access request to the Respondent on 1 July 2019 seeking access to all of their data associated with the account.
 - c. the Data Subject did not receive any response 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. On 30 May 2022, the DPC outlined the complaint to the Respondent and raised a number of queries in relation to the account disablement, as well as the legal basis it was relying on in the event that it was withholding any data on foot of the access request.
8. On 14 July 2022, the Respondent wrote to the DPC addressing the queries raised. In its correspondence to the DPC, the Respondent explained that the Data Subject’s account had been reported as being a potential impersonation account. Following a review by the Respondent, the account was disabled for violating the Respondent’s policies regarding account integrity and authentic identity. The Respondent further explained that the Data Subject had appealed this disablement. As part of the appeal process, the Respondent requested information in order to verify that the Data Subject was the owner of the account. However, as the account was a “parodic” account (which impersonated a high profile public figure), the details provided did not match. The Respondent noted that the Data Subject failed to engage with subsequent requests from the team dealing with the appeal and so the appeal could not be progressed.
9. However, on foot of the DPC’s engagement, the Respondent explained that it had carried out a further review of the account and noted that, in light of the language used on the account to deny affiliation with the high-profile public figure in question, it was satisfied that the account did not constitute an impersonation account in violation of its policies. The Respondent explained that the account had now be reinstated on foot of this review and that the Data Subject could access and download their data through the account by utilising the self-service tools.
10. On 23 August 2022, the DPC wrote to the Data Subject setting out the Respondent’s explanations above. The DPC noted that the Data Subject’s account had now been restored and that a copy of their data could be accessed via the self-service tools. As such, the DPC considered that the dispute between the Data Subject and Respondent appeared to have

been resolved. In the circumstances, the DPC asked the Data Subject to notify it, within two months, 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.

11. On 11 May 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
 - 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