

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 Berliner Beauftragte für Datenschutz und Informationsfreiheit (Berlin SA) pursuant to Article 77 of the General Data Protection Regulation, concerning Airbnb Ireland UC

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 14<sup>th</sup> day of April 2023



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## **Background**

1. On 17 January 2022, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Berlin SA (“the **Recipient SA**”) concerning Airbnb Ireland UC (“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 8 June 2022.

## **The Complaint**

3. The details of the complaint were as follows:
  - a. The Data Subject contacted the Respondent on 24 November 2021 requesting access to their personal data which the Respondent responded to on 15 December 2021.
  - b. However, the Data Subject was not satisfied with the response received. The Data Subject asserted that their data had not been provided in a structured, commonly used and machine-readable format as required by Article 20(1) GDPR and requested their data be provided as a JSON file. In addition, the Data Subject outlined that their queries relating to the processing of their personal data were not fully addressed.

## **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 10 August 2022, the DPC outlined the Data Subject’s outstanding concerns to the Respondent.
8. On 5 September 2022, the Respondent confirmed to the DPC that it had provided the Data Subject with their access file in CSV and JPEG format, asserting that this format was suitable to facilitate the right to data portability in the Article 29 Working Party guidelines on the right to data portability. The Respondent asserted that on 18 January 2022, it had provided the Data Subject with answers to their various queries.
9. On 21 September 2022, the DPC again wrote to the Respondent raising a number of outstanding queries that had not been addressed by the Respondent’s response. The DPC sought an explanation as to why the Respondent did not acknowledge or respond to the Data Subject’s questions in relation to how the Respondent processed their personal data. The DPC noted that at no stage of the Data Subject’s engagement with the Respondent were they directed to Airbnb’s Privacy Policy.
10. On 28 September 2022, the Respondent outlined to the DPC that in response to the Data Subject’s original access request it had provided them with their access file *“in the commonly used electronic form of Microsoft Excel.”*

In addition, the Respondent re-iterated that on 18 January 2022 it had answered the Data Subject’s various questions in relation to Article 15(1) and (2) GDPR. The Respondent pointed out that these answers directed the Data Subject to Airbnb’s Privacy Policy. The Respondent’s investigations had determined that the Data Subject had *“submitted different iterations of her [access request], with the reiterated questions...omitting certain of the previously raised questions”*. This resulted in the Respondent’s agent failing to identify the full scope of the queries raised, leading to the Respondent’s deficient response. The Respondent apologised

for this oversight. The Respondent outlined that it had provided responses to the Data Subject's queries regarding its processing of their personal data.

11. On 12 October 2022, the DPC wrote to the Data Subject via the Recipient SA outlining the Respondent's actions in response to their complaint. When doing so, the DPC noted that, the requested personal data now having been provided by the Respondent and their queries relating to the processing of their personal data having been answered, 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.
12. On 13 December 2022, the Recipient SA informed the DPC that on 24 November 2022, it had received an email from the Data Subject outlining that they had withdrawn their complaint. Accordingly, the complaint has been deemed to have been amicably resolved.
13. On 15 March 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.
14. 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**

15. 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.
16. 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:

*Tom Delaney*

---

Deputy Commissioner

Data Protection Commission