

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 Urząd Ochrony Danych Osobowych (Poland DPA) 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 ON 12 MAY 2022)**

Dated the 21st day of April 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 27 January 2020, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Urząd Ochrony Danych Osobowych (“the **Recipient SA**”) concerning Google 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) of the GDPR, the Recipient SA transferred the complaint to the DPC on 25 May 2020.

The Complaint

3. The details of the complaint were as follows:
 - a. On 28 May 2018, the Data Subject contacted the Respondent to request the removal of two videos from the Respondent’s platform that had been uploaded by a third party user without the prior consent of the Data Subject.
 - b. The Respondent initially responded to the Data Subject advising that after reviewing the request they had decided not to take any action. The Data Subject and the Respondent continued to communicate on this matter.
 - c. As the Data Subject was not satisfied with the various responses received from the Respondent regarding the concerns raised, the Data Subject lodged a complaint with the Recipient SA.

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. On 26 November 2020, the DPC engaged with the Respondent in relation to the subject matter of the complaint. Further to the DPC's initial engagement, the Respondent provided a reply to the DPC addressing the issues in the complaint and providing a timeline of relevant events:
 - a. The Respondent advised that in light of the information provided by the Data Subject and pursuant to YouTube's Privacy Guidelines, the videos in question had been removed from the Respondent's platform in early 2020;
 - b. On 10 December 2020, the Respondent notified the Data Subject of the actions it had taken.
8. On 12 January 2021, the DPC communicated this information to the Data Subject (via the Recipient SA). In this correspondence, the DPC requested that the Data Subject notify it, within a specified timeframe, if they were not satisfied with the action taken by the Respondent, so that the DPC could examine this matter further. On 18 January 2021, the Recipient SA confirmed that they issued this update to the Data Subject.
9. On 29 January 2021, the Data Subject replied, via the Recipient SA, advising that even though the content had been removed from the platform, they did not accept the actions taken by the Respondent amicably resolved their complaint. The DPC continued to engage with the Data Subject. On 4 November 2021, via the Recipient SA, the Data Subject advised the DPC that they did not accept that the actions taken by the Respondent adequately resolved their complaint, as the relevant data was only deleted in 2020, while their request for deletion was made in 2018.

10. The DPC continued to engage with the Data Subject and the Respondent in an attempt to amicably resolve the matter for the Data Subject. On 16 June 2022, the DPC contacted the Respondent to request that they provide a detailed explanation that could be shared with the Data Subject for reasoning to the delay in the data being removed.
11. On 29 June 2022, the Respondent advised that the delay in removing the content was due to the fact that the videos touched upon a sensitive yet controversial subject that had obvious public interest in both Poland and internationally. Following subsequent requests from the Data Subject in January, February, March and April of 2020 for the removal of the videos, (prior to the complaint being transferred to the DPC) the Respondent had reconsidered the content of the videos. When conducting the additional assessment of the content in early 2020, the Respondent noted that the first of the two videos had already been removed from its platform. When reassessing the second video, the Respondent was of the view that the statements in that particular video were found to be out of date at that stage, and subsequently removed the video. This action occurred in early 2020.
12. On 9 September 2022, the DPC forwarded this information update to the Recipient SA for onward transmission to the Data Subject. On 17 October 2022, the Recipient SA confirmed that they issued this update to the Data Subject.
13. The Data Subject replied (via the Recipient SA) stating that they were willing to accept the amicable resolution but only if the Respondent issued them with a written apology. The DPC communicated this to the Respondent on 25 November 2022.
14. On 09 December 2022, the Respondent replied stating that they had contacted the Data Subject on 09 December 2022 with a formal written apology. The DPC confirmed this action with the Data Subject via the Recipient SA on 20 December 2022.
15. On 26 January 2023, the Recipient SA confirmed that no response had been received from the Data Subject.
16. On 7 February 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.
17. On 14 February 2023, the Recipient SA confirmed that the Data Subject has been informed about the closure of the cases and thanked the DPC for the co-operation regarding this matter.
18. 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

19. 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.

20. 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