

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Data Protection Commission 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 5<sup>th</sup> day of May 2023



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## **Background**

1. On 25 March 2022, ██████████ (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Data Protection Commission (“the **DPC**”) concerning Apple Distribution International Limited (“the **Respondent**”).
2. The DPC was deemed to be the competent authority for the purpose of Article 56(1) of the GDPR.

## **The Complaint**

3. The details of the complaint were as follows:
  - a. The Data Subject emailed the Respondent on 18 March 2022 to request erasure of their account and personal data.
  - b. In response, the Respondent provided the Data Subject with a link to the self-service portal on the Respondent’s platform. The Respondent advised the Data Subject that they could use this link to delete their data. The Data Subject replied to the Respondent advising that they were unable to use the self-service portal as they could not log into their account. This was due to the fact they could not remember the answers they had previously provided to the security questions. In response, the Respondent informed the Data Subject they could not delete the account, as they could not verify the identity of the account holder.
  - c. The Data Subject was not satisfied with the Respondent’s response and made a complaint to the DPC.

## **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 and Respondent in relation to the subject matter of the complaint. The DPC first engaged with the Respondent on 20 June 2022. Further to that engagement, on 30 June 2022 the Respondent advised the DPC that it could not offer an alternative method to verifying the Data Subject was the owner of the account, without compromising its security measures. This was due to the fact the Data Subject had not provided the necessary information to demonstrate their entitlement to access the information on the account. The DPC engaged further with the Respondent setting out criteria that the Respondent could consider in relation to the erasure of account. In the circumstances, the Respondent agreed to take the following action:
  - a. The Respondent agreed to review their position on deletion requests in the context of where a user is unable to access their account.
  - b. To consider what additional supports would be enough to enable users in specified circumstances to have their request processed without compromising the Respondent's security obligations.
8. On 12 August 2022, the Respondent informed the DPC that it was continuing to review the complainant's account in a bid to help the complainant regain access to their account. On 27 October 2022, the Respondent informed the DPC that following this review, the Respondent noted recent activity on the account and that two-factor authentication had been enabled on the account.
9. On 21 December 2022, the Respondent informed the DPC that they were of the view that the owner of the account had regained control of the account due to the recent activity on the

account. As a result, the Respondent noted that should the Data Subject wish to erase their account, given that they had access to the account, they could do so through the self-service portal.

10. The DPC wrote to the Data Subject on 31 January 2023, providing a detailed overview of the DPC's engagement with the Respondent on the matter. This correspondence outlined the Respondent's view that the owner of the account appeared to have regained access to the account and therefore could delete it through the self-service portal, if they so wished. In the circumstances, the DPC asked the Data Subject to notify it, within a specified timeframe, if they were not satisfied with the information provided, 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. 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**

12. 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.
13. 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:



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Deputy Commissioner  
Data Protection Commission