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IAPP Certified Information Privacy Professional/Europe (CIPP/E) Sample Questions (Q210-Q215):

NEW QUESTION # 210

What are the obligations of a processor that engages a sub-processor?

- A. The processor must receive a written agreement that the sub-processor will be fully liable to the controller for the performance of its obligations in relation to the personal data concerned.
- B. The processor must give the controller prior written notice and perform a preliminary audit of the sub-processor.
- C. The processor must obtain the controller's specific written authorization and provide annual reports on the sub-processor's performance.
- **D. The processor must obtain the consent of the controller and ensure the sub-processor complies with data processing obligations that are equivalent to those that apply to the processor.**

Answer: D

Explanation:

According to Article 28(2) of the GDPR, the processor may not engage another processor (sub-processor) without the prior specific or general written authorization of the controller. In the case of general written authorization, the processor must inform the controller of any intended changes concerning the addition or replacement of other processors, thereby giving the controller the opportunity to object to such changes.

Furthermore, Article 28(4) of the GDPR states that where a processor engages another processor for carrying out specific processing activities on behalf of the controller, the same data protection obligations as set out in the contract or other legal act between the controller and the processor shall be imposed on that other processor by way of a contract or other legal act under Union or Member State law, in particular providing sufficient guarantees to implement appropriate technical and organizational measures in such a manner that the processing will meet the requirements of the GDPR. Therefore, the processor must ensure that the sub-processor complies with data processing obligations that are equivalent to those that apply to the processor. References:

* Article 28 of the GDPR

* European Data Protection Law & Practice textbook, Chapter 6: Data Processing Obligations, Section 6.3: Processor Obligations, Subsection 6.3.2: Sub-processors

Reference: <https://inplp.com/latest-news/article/gdpr-rights-and-obligations-of-sub-processors/>

NEW QUESTION # 211

How is the retention of communications traffic data for law enforcement purposes addressed by European data protection law?

- A. The GDPR allows the retention of such data for the prevention, investigation, detection or prosecution of criminal offences only.
- **B. The ePrivacy Directive harmonizes EU member states' rules concerning such data retention.**
- C. The ePrivacy Directive allows individual EU member states to engage in such data retention.
- D. The Data Retention Directive's annulment makes such data retention now permissible.

Answer: B

Explanation:

The ePrivacy Directive is a European Union (EU) directive that aims to protect the confidentiality of electronic communications and prevent their indiscriminate interception or monitoring. It was adopted in 2002 and amended in 2009. It applies to all providers of electronic communication services, such as internet service providers, mobile network operators, and online platforms¹².

One of the main objectives of the ePrivacy Directive is to ensure that the retention of communications traffic data for law enforcement purposes is subject to strict conditions and safeguards. Communications traffic data refers to any information relating to the transmission or routing of electronic communications, such as IP addresses, timestamps, and metadata³. Such data can be used by competent national authorities for the prevention, investigation, detection or prosecution of criminal offences and safeguarding national security⁴.

However, the ePrivacy Directive does not allow individual EU member states to engage in such data retention without harmonizing their rules. Article 6(1)(b) of the directive states that "Member States shall ensure that any measures taken by them in relation to the retention of traffic data are consistent with this Directive". Therefore, each EU member state must adopt a national law that complies with the requirements and limitations set by the directive¹².

The Data Retention Directive (DRD) was a previous EU directive that aimed to establish a common framework for the retention of communications traffic data for law enforcement purposes across all EU member states. It was adopted in 2006 and amended in 2010. However, it was annulled by the Court of Justice of the European Union (CJEU) in 2014 on procedural grounds. The CJEU found that some provisions of the DRD were inconsistent with other EU directives and principles, such as Article 8(2) of the Charter of Fundamental Rights (CFR), which protects individuals from arbitrary interference with their privacy⁵⁶.

The GDPR is a new EU regulation that implements some aspects of the DRD into national law through its provisions on processing personal data. However, it does not address directly the issue of communications traffic data retention for law enforcement purposes. Instead, it requires providers to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk involved in processing personal data. These measures include encryption, pseudonymisation, access control, and accountability⁷. The GDPR also grants individuals certain rights regarding their personal data, such as access, rectification, erasure, portability, and objection⁷.

Therefore, under current EU law, there is no single legal basis for retaining communications traffic data for law enforcement purposes across all EU member states. Each member state must adopt its own national law that respects the principles and limitations established by the ePrivacy Directive.

Reference:

ePrivacy Directive

ePrivacy Regulation

What is Communications Traffic Data?

How is Communications Traffic Data Retained?

Data Retention Directive

Data Retention Directive annulled by CJEU

General Data Protection Regulation

What are your rights regarding your personal data?

NEW QUESTION # 212

Read the following steps:

- * Discover which employees are accessing cloud services and from which devices and apps Lock down the data in those apps and devices
- * Monitor and analyze the apps and devices for compliance
- * Manage application life cycles
- * Monitor data sharing

An organization should perform these steps to do which of the following?

- A. Institute a GDPR-compliant employee monitoring process.
- **B. Maintain a secure Bring Your Own Device (BYOD) program.**
- C. Pursue a GDPR-compliant Privacy by Design process.
- D. Ensure cloud vendors are complying with internal data use policies.

Answer: B

NEW QUESTION # 213

Pursuant to Article 17 and EDPB Guidelines S'2019 on RTBF criteria in search engines cases, all of the following would be valid grounds for data subject delisting requests EXCEPT?

- **A. The processing is necessary for exercising the right of freedom of expression and information**
- B. The personal data has been collected in relation to the offer of Information society services (ISS) to a child.
- C. The personal data is no longer necessary in relation to the search engine provider's processing
- D. The data subject withdraws consent and there is no other legal basis for the processing.

Answer: A

NEW QUESTION # 214

SCENARIO

Please use the following to answer the next question:

Financially, it has been a very good year at ARRA Hotels: Their 21 hotels, located in Greece (5), Italy (15) and Spain (1), have registered their most profitable results ever. To celebrate this achievement, ARRA Hotels' Human Resources office, based in ARRA's main Italian establishment, has organized a team event for its 420 employees and their families at its hotel in Spain.

Upon arrival at the hotel, each employee and family member is given an electronic wristband at the reception desk. The wristband serves a number of functions:

- . Allows access to the "party zone" of the hotel, and emits a buzz if the user approaches any unauthorized areas
- . Allows up to three free drinks for each person of legal age, and emits a buzz once this limit has been reached
- . Grants a unique ID number for participating in the games and contests that have been planned.

Along with the wristband, each guest receives a QR code that leads to the online privacy notice describing the use of the wristband. The page also contains an unchecked consent checkbox. In the case of employee family members under the age of 16, consent must be given by a parent.

Among the various activities planned for the event, ARRA Hotels' HR office has autonomously set up a photocall area, separate from the main event venue, where employees can come and have their pictures taken in traditional carnival costume.

The photos will be posted on ARRA Hotels' main website for general marketing purposes.

On the night of the event, an employee from one of ARRA's Greek hotels is displeased with the results of the photos in which he appears. He intends to file a complaint with the relevant supervisory authority in regard to the following:

- . The lack of any privacy notice in the separate photocall area

The unlawful cross-border processing of his personal data

- . The unacceptable aesthetic outcome of his photos

Why would consent NOT be considered an adequate legal basis for accessing the party zone?

- A. The consent is not in writing.
- **B. The consent is not freely given.**
- C. The consent is not sufficiently informed.
- D. The consent is not completely unambiguous.

Answer: B

Explanation:

Consent is one of the legal bases for processing personal data under the GDPR, but it must meet certain conditions to be valid.

According to Article 4(11) of the GDPR, consent means "any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her." In this scenario, consent would not be considered an adequate legal basis for accessing the party zone, because it is not freely given. Freely given consent means that the data subject has a genuine and free choice to agree or disagree to the processing, and that there is no detriment, coercion, or significant negative consequences if the data subject does not consent. However, in this case, the consent is conditional on accessing the party zone, which is the main purpose of the event. Therefore, the data subject does not have a real choice, and may feel pressured or obliged to consent in order to participate in the event. This violates the principle of free consent, and could invalidate the consent as a legal basis.

References:

*GDPR Article 4 - Definitions1

*GDPR Article 7 - Conditions for consent2

*Guidelines 05/2020 on consent under Regulation 2016/6793

NEW QUESTION # 215

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