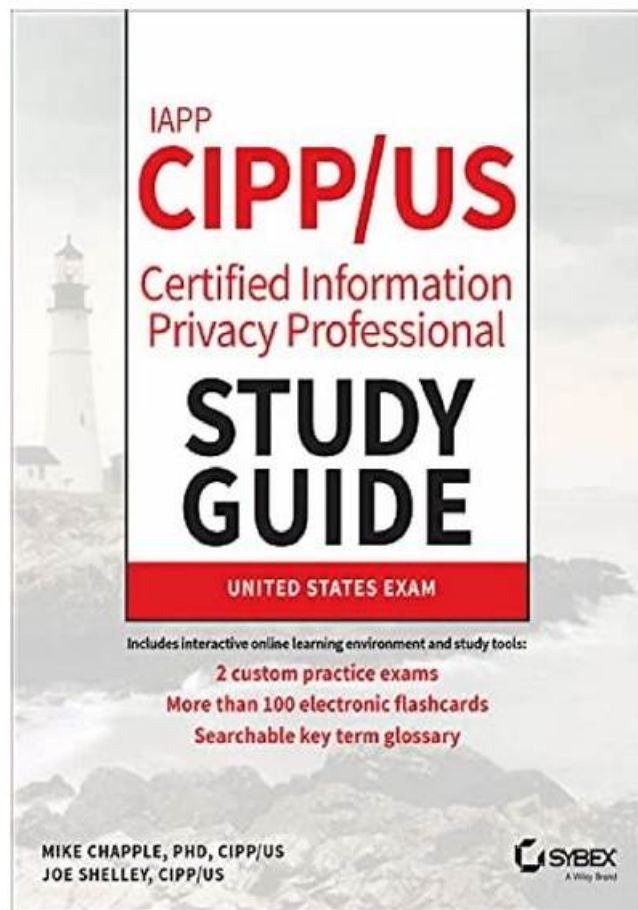


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IAPP Certified Information Privacy Professional/United States (CIPP/US) Sample Questions (Q126-Q131):

NEW QUESTION # 126

SCENARIO

Please use the following to answer the next QUESTION:

A US-based startup company is selling a new gaming application. One day, the CEO of the company receives an urgent letter from a prominent EU-based retail partner. Triggered by an unresolved complaint lodged by an EU resident, the letter describes an ongoing investigation by a supervisory authority into the retailer's data handling practices.

The complainant accuses the retailer of improperly disclosing her personal data, without consent, to parties in the United States. Further, the complainant accuses the EU-based retailer of failing to respond to her withdrawal of consent and request for erasure of her personal data. Your organization, the US-based startup company, was never informed of this request for erasure by the EU-based retail partner. The supervisory authority investigating the complaint has threatened the suspension of data flows if the parties involved do not cooperate with the investigation. The letter closes with an urgent request: "Please act immediately by identifying all personal data received from our company." This is an important partnership. Company executives know that its biggest fans come from Western Europe; and this retailer is primarily responsible for the startup's rapid market penetration.

As the Company's data privacy leader, you are sensitive to the criticality of the relationship with the retailer.

Under the General Data Protection Regulation (GDPR), how would the U.S.-based startup company most likely be classified?

- A. As a data manager
- B. As a data controller
- C. As a data supervisor
- **D. As a data processor**

Answer: D

Explanation:

The data privacy leader needs to identify all the personal data that the Company has received from the retailer, as well as the purposes, retention periods, and sharing practices of such data. Since the data inventory is obsolete, the data privacy leader cannot rely on it to provide accurate and complete information. Therefore, the next best source of information is to interview the key marketing personnel who are responsible for the partnership with the retailer and the use of the personal data. The marketing personnel can provide insights into the data flows, the data categories, the data processing activities, and the data protection measures that the Company has implemented. They can also help the data privacy leader to locate the relevant documents, contracts, and records that can support the investigation. References: [IAPP CIPP/US Study Guide], Chapter 5:

Data Management, p. 97-98; IAPP Privacy Tech Vendor Report, Data Mapping and Inventory, p. 9-10.

NEW QUESTION # 127

Which authority supervises and enforces laws regarding advertising to children via the Internet?

- A. The Department of Homeland Security
- B. The Federal Communications Commission
- **C. The Federal Trade Commission**
- D. The Office for Civil Rights

Answer: C

NEW QUESTION # 128

What role does the U.S. Constitution play in the area of workplace privacy?

- A. It provides contractual protections to members of labor unions, but not to employees at will
- B. It provides enforcement resources to large employers, but not to small businesses
- **C. It provides significant protections to federal and state governments, but not to private-sector employment**
- D. It provides legal precedent for physical information security, but not for electronic security

Answer: C

Explanation:

The U.S. Constitution plays a limited role in the area of workplace privacy, because it mainly applies to the actions of the government, not private employers. The Fourth Amendment protects the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures¹. The Supreme Court has interpreted this right to include a reasonable expectation of privacy in certain situations, such as in one's home, car, or personal belongings². However, this right does not extend to private-sector employees, who are not protected by the Constitution from the actions of their employers, unless the employer is acting as an agent of the government³. Private-sector employees may have some privacy rights under state laws, common law, or contractual agreements, but these vary depending on the jurisdiction and the circumstances⁴.

Public-sector employees, on the other hand, are protected by the Constitution from unreasonable searches and seizures by their employers, who are considered part of the government. Public-sector employees have a reasonable expectation of privacy in their workplace, unless there is a legitimate work-related reason for the search or seizure, such as to ensure safety, security, or efficiency. Public-sector employers must also comply with the due process and equal protection clauses of the Fifth and Fourteenth Amendments, which prohibit the government from depriving any person of life, liberty, or property without due process of law, or from denying any person the equal protection of the laws. These clauses protect public-sector employees from arbitrary or discriminatory actions by their employers that affect their employment status or benefits.

Therefore, the U.S. Constitution plays a significant role in the area of workplace privacy for federal and state governments, but not for private-sector employment, because it only regulates the actions of the government, not private actors. References:

* 1: Cornell Law School, Fourth Amendment,

https://www.law.cornell.edu/constitution/fourth_amendment

* 2: FindLaw, What Is a Reasonable Expectation of Privacy?,

<https://www.findlaw.com/criminal/criminal-rights/what-is-a-reasonable-expectation-of-privacy.html>

* 3: FindLaw, Workplace Privacy,

<https://www.findlaw.com/smallbusiness/employment-law-and-human-resources/workplace-privacy.html>

* 4: Nolo, Privacy Rights of Employees,

<https://www.nolo.com/legal-encyclopedia/privacy-rights-employees-29849.html>

* : OPM, Employee Relations,

<https://www.opm.gov/policy-data-oversight/employee-relations/reference-materials/employee-privacy/>

* : Cornell Law School, Fifth Amendment, https://www.law.cornell.edu/constitution/fifth_amendment

* : FindLaw, Public Employees and the Constitution,

<https://www.findlaw.com/employment/employment-rights/public-employees-and-the-constitution.html>

NEW QUESTION # 129

A company based in United States receives information about its UK subsidiary's employees in connection with the centralized HR service it provides.

How can the UK company ensure an adequate level of data protection that would allow the restricted data transfer to continue?

- **A. By revising the contract with the United States parent company incorporating EU SCCs, as it continues to be valid for restricted transfers under the UK regime.**
- B. By allowing each employee the option to opt-out to the restricted transfer, as it is necessary to send their names in order to book the sales bonuses.
- C. By signing up to an approved code of conduct under UK GDPR to demonstrate compliance with its requirements, both for the parent and the subsidiary companies.
- D. By submitting to the ICO a new application for the UK BCRs using the UK BCR application forms, as their existing authorized EU BCRs are not recognized.

Answer: A

Explanation:

The UK company can ensure an adequate level of data protection for the restricted data transfer to the US parent company by using the EU Standard Contractual Clauses (SCCs), which are contractual terms that provide safeguards for personal data transferred from the UK to third countries. The UK GDPR recognizes the validity of the EU SCCs adopted before the end of the Brexit transition period, and allows the UK Information Commissioner's Office (ICO) to issue new SCCs in the future. The other options are not correct because:

* A. Signing up to an approved code of conduct under the UK GDPR is not sufficient to ensure an adequate level of data protection for restricted transfers, as it is not a transfer mechanism on its own.

The UK company would still need to use another appropriate safeguard, such as SCCs or Binding Corporate Rules (BCRs), to transfer personal data to the US parent company.

* C. Submitting a new application for the UK BCRs is not necessary, as the UK GDPR recognizes the existing authorized EU BCRs as valid for restricted transfers from the UK. The UK company can continue to rely on its EU BCRs, as long as they are updated to reflect the UK GDPR requirements and the role of the ICO as the competent supervisory authority.

* UK GDP

- * UK GDPR, Chapter V, Article 46
- * UK GDPR, Chapter V, Article 47
- * UK GDPR, Chapter V, Article 49
- * ICO guidance on international transfers
- * IAPP CIPP/US Study Guide, Chapter 10, Section 10.3.2

NEW QUESTION # 130

Which federal act does NOT contain provisions for preempting stricter state laws?

- A. The Fair and Accurate Credit Transactions Act (FACTA)
- B. The CAN-SPAM Act
- C. The Telemarketing Consumer Protection and Fraud Prevention Act
- D. The Children's Online Privacy Protection Act (COPPA)

Answer: C

NEW QUESTION # 131

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