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## IAPP Certified Information Privacy Professional/Europe (CIPP/E) Sample Questions (Q200-Q205):

### NEW QUESTION # 200

According to the European Data Protection Board, controllers responding to a data subject access request can refuse to provide a copy of personal data under certain conditions. Which of the following is NOT one of these conditions?

- A. If the personal data was processed in the past but is no longer at the controller's disposal at the time of the request.
- B. **If the controller is unable to use end-to-end encrypted emails for responding to such requests.**
- C. If there is such a large amount of data that the controller cannot identify the data subject of the request.
- D. If the data subject access request was sent to an employee that is not involved in the processing of such requests.

### Answer: B

#### Explanation:

The right of access is one of the fundamental rights of data subjects under the GDPR. It allows data subjects to obtain from the controller confirmation as to whether or not personal data concerning them are being processed, and, where that is the case, access to the personal data and certain information about the processing. The controller must provide a copy of the personal data undergoing processing to the data subject, unless the data subject requests otherwise. The right of access is not absolute and may be subject to limitations, restrictions or exceptions, in accordance with the GDPR and the national laws of the member states.

The EDPB has issued draft guidelines on the right of access, which provide more detailed guidance on how to handle data subject access requests and what are the possible grounds for refusing to provide a copy of the personal data. According to the draft guidelines, the controller can refuse to provide a copy of the personal data in the following situations:

If the data subject access request was sent to an employee that is not involved in the processing of such requests. In this case, the controller must inform the data subject of the appropriate contact point for submitting the request and must not consider the request as received until it reaches the designated person or unit. This does not mean that the controller can ignore or delay the request, but rather that the controller must ensure that the request is forwarded to the responsible person or unit as soon as possible.

If there is such a large amount of data that the controller cannot identify the data subject of the request. In this case, the controller can ask the data subject to provide additional information to enable the identification of the data subject, such as a unique identifier, a reference number, a specific time period, a location or a context of the processing. The controller must not ask for more information than is necessary and must not use the information for any other purpose than verifying the identity of the data subject.

If the personal data was processed in the past but is no longer at the controller's disposal at the time of the request. In this case, the controller must inform the data subject that the personal data are no longer available and explain the reasons why the personal data have been erased, anonymised, archived or otherwise disposed of. The controller must also provide the data subject with any relevant information about the retention period, the archiving policy, the anonymisation process or the disposal method of the personal data.

The controller cannot refuse to provide a copy of the personal data in the following situation:

If the controller is unable to use end-to-end encrypted emails for responding to such requests. In this case, the controller must still provide a copy of the personal data to the data subject, but must ensure that the communication is secure and that the personal data are protected from unauthorised or unlawful access, disclosure, alteration or destruction. The controller can use alternative means of communication, such as secure online platforms, password-protected files, encrypted devices or postal mail, depending on the preferences and circumstances of the data subject. The controller must also inform the data subject of the risks involved in the chosen communication method and obtain the data subject's consent before sending the personal data.

#### References:

GDPR, Articles 12, 13, 14, 15, 23 and 34.

EDPB Guidelines 01/2022 on data subject rights - Right of access Version 2, pages 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16.

### NEW QUESTION # 201

Through a combination of hardware failure and human error, the decryption key for a bank's customer account transaction database has been lost. An investigation has determined that this was not the result of hacking or malfeasance, simply an unfortunate combination of circumstances. Which of the following accurately indicates the nature of this incident?

- A. A data breach has not occurred because the loss was not the result of hacking.
- B. A data breach has not occurred because no data was exposed to any unauthorized individual.

- C. A data breach has occurred because the loss of the key has resulted in the data no longer being accessible.
- D. A data breach has occurred because the loss of the key has resulted in the loss of confidentiality or integrity of the data.

**Answer: D**

Explanation:

A data breach is broadly defined as any incident that leads to the unauthorized access, disclosure, alteration, or destruction of personal data. While options A and B might seem plausible at first glance, they focus on a narrow interpretation of a breach. The key here is the loss of confidentiality and/or integrity. Even though no one has actively stolen the data, the bank can no longer guarantee the confidentiality of the information, nor can it ensure the integrity of the data since it cannot be accessed or modified securely. This constitutes a loss of control over the data and thus qualifies as a data breach.

References:

IAPP CIPP/E textbook, Chapter 5: Data Breach Notification (specifically, the definition of a personal data breach) GDPR Article 4(12) - Definition of a personal data breach

**NEW QUESTION # 202**

**SCENARIO**

Louis, a long-time customer of Bedrock Insurance, was involved in a minor car accident a few months ago.

Although no one was hurt, Louis has been plagued by texts and calls from a company called Accidentalable offering to help him recover compensation for personal injury. Louis has heard about insurance companies selling customers' data to third parties, and he's convinced that Accidentalable must have gotten his information from Bedrock Insurance.

Louis has also been receiving an increased amount of marketing information from Bedrock, trying to sell him their full range of their insurance policies.

Perturbed by this, Louis has started looking at price comparison sites on the internet and has been shocked to find that other insurers offer much cheaper rates than Bedrock, even though he has been a loyal customer for many years. When his Bedrock policy comes up for renewal, he decides to switch to Zantrum Insurance.

In order to activate his new insurance policy, Louis needs to supply Zantrum with information about his No Claims bonus, his vehicle and his driving history. After researching his rights under the GDPR, he writes to ask Bedrock to transfer his information directly to Zantrum. He also takes this opportunity to ask Bedrock to stop using his personal data for marketing purposes.

Bedrock supplies Louis with a PDF and XML (Extensible Markup Language) versions of his No Claims Certificate, but tells Louis it cannot transfer his data directly to Zantrum as this is not technically feasible.

Bedrock also explains that Louis's contract included a provision whereby Louis agreed that his data could be used for marketing purposes; according to Bedrock, it is too late for Louis to change his mind about this. It angers Louis when he recalls the wording of the contract, which was filled with legal jargon and very confusing.

In the meantime, Louis is still receiving unwanted calls from Accidentalable Insurance. He writes to Accidentalable to ask for the name of the organization that supplied his details to them. He warns Accidentalable that he plans to complain to the data protection authority, because he thinks their company has been using his data unlawfully. His letter states that he does not want his data being used by them in any way.

Accidentalable's response letter confirms Louis's suspicions. Accidentalable is Bedrock Insurance's wholly owned subsidiary, and they received information about Louis's accident from Bedrock shortly after Louis submitted his accident claim. Accidentalable assures Louis that there has been no breach of the GDPR, as Louis's contract included, a provision in which he agreed to share his information with Bedrock's affiliates for business purposes.

Louis is disgusted by the way in which he has been treated by Bedrock, and writes to them insisting that all his information be erased from their computer system.

Based on the GDPR's position on the use of personal data for direct marketing purposes, which of the following is true about Louis's rights as a data subject?

- A. Louis does not have the right to object to the use of his data because he previously consented to it.
- B. Louis does not have the right to object to the use of his data if Bedrock can demonstrate compelling legitimate grounds for the processing.
- C. Louis has the right to object at any time to the use of his data and Bedrock must honor his request to cease use.
- D. Louis has the right to object to the use of his data, unless his data is required by Bedrock for the purpose of exercising a legal claim.

**Answer: C**

Explanation:

Louis has the right to object at any time to the use of his data and Bedrock must honor his request to cease use.

The GDPR states that "where personal data are processed for direct marketing purposes, the data subject shall have the right to object at any time to processing of personal data concerning him or her for such marketing" and that "where the data subject objects

to processing for direct marketing purposes, the personal data shall no longer be processed for such purposes.<sup>3</sup> This right applies regardless of whether the data subject has previously consented to the use of his or her data, or whether the data are required for a legal claim or a legitimate interest. The data subject must be informed of this right clearly and separately from any other information at the time of the first communication with him or her, and must be provided with an easy way to exercise it.<sup>2</sup> Therefore, Louis can object to the use of his data by Bedrock and Accidentalable for direct marketing purposes, and they must stop processing his data for such purposes as soon as they receive his objection. Louis can also withdraw his consent for any other processing of his data that he has previously agreed to, such as sharing his data with Bedrock's affiliates.<sup>4</sup>

## NEW QUESTION # 203

### SCENARIO

Please use the following to answer the next question:

Joe is the new privacy manager for Who-R-U, a Canadian business that provides DNA analysis. The company is headquartered in Montreal, and all of its employees are located there. The company offers its services to Canadians only: Its website is in English and French, it accepts only Canadian currency, and it blocks internet traffic from outside of Canada (although this solution doesn't prevent all non-Canadian traffic). It also declines to process orders that request the DNA report to be sent outside of Canada, and returns orders that show a non-Canadian return address.

Bob, the President of Who-R-U, thinks there is a lot of interest for the product in the EU, and the company is exploring a number of plans to expand its customer base.

The first plan, collegially called We-Track-U, will use an app to collect information about its current Canadian customer base. The expansion will allow its Canadian customers to use the app while traveling abroad. He suggests that the company use this app to gather location information. If the plan shows promise, Bob proposes to use push notifications and text messages to encourage existing customers to pre-register for an EU version of the service. Bob calls this work plan, We-Text-U. Once the company has gathered enough pre- registrations, it will develop EU-specific content and services.

Another plan is called Customer for Life. The idea is to offer additional services through the company's app, like storage and sharing of DNA information with other applications and medical providers. The company's contract says that it can keep customer DNA indefinitely, and use it to offer new services and market them to customers. It also says that customers agree not to withdraw direct marketing consent. Paul, the marketing director, suggests that the company should fully exploit these provisions, and that it can work around customers' attempts to withdraw consent because the contract invalidates them.

The final plan is to develop a brand presence in the EU. The company has already begun this process. It is in the process of purchasing the naming rights for a building in Germany, which would come with a few offices that Who-R-U executives can use while traveling internationally. The office doesn't include any technology or infrastructure; rather, it's simply a room with a desk and some chairs.

On a recent trip concerning the naming-rights deal, Bob's laptop is stolen. The laptop held unencrypted DNA reports on 5,000 Who-R-U customers, all of whom are residents of Canada. The reports include customer name, birthdate, ethnicity, racial background, names of relatives, gender, and occasionally health information.

The Customer for Life plan may conflict with which GDPR provision?

- A. Article 20, which gives data subjects a right to data portability.
- B. Article 6, which requires processing to be lawful.
- C. Article 7, which requires consent to be as easy to withdraw as it is to give.
- D. Article 16, which provides data subjects with a rights to rectification.

### Answer: C

#### Explanation:

The Customer for Life plan may conflict with Article 7 of the GDPR, which states that "the data subject shall have the right to withdraw his or her consent at any time" and that "it shall be as easy to withdraw as to give consent" 1. The plan violates this principle by stating that customers agree not to withdraw direct marketing consent and that the company can ignore any attempts to do so. This is not a valid way of obtaining or maintaining consent, as consent must be freely given, specific, informed and unambiguous 2. Moreover, the plan may also conflict with Article 21 of the GDPR, which gives data subjects the right to object to direct marketing at any time 3. References: 1: Article 7(3) of the GDPR 2: Article 4(11) of the GDPR 3: Article 21 (2) of the GDPR I hope this helps. If you have any other questions, please feel free to ask. #

## NEW QUESTION # 204

When would a data subject NOT be able to exercise the right to portability?

- A. When the processing is based on consent.
- B. When the processing is necessary to perform a task in the exercise of authority vested in the controller.

- C. When the data was supplied to the controller by the data subject.
- D. When the processing is carried out pursuant to a contract with the data subject.

#### Answer: B

Explanation:

Reference <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-to-data-portability/>

#### NEW QUESTION # 205

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