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IAPP Certified Information Privacy Professional/United States (CIPP/US) Sample Questions (Q140-Q145):

NEW QUESTION # 140

In which situation is a company operating under the assumption of implied consent?

- A. A retail clerk asks a customer to provide a zip code at the check-out counter

- B. A landlord uses the information on a completed rental application to run a credit report
- **C. An employer contacts the professional references provided on an applicant's resume**
- D. An online retailer subscribes new customers to an e-mail list by default

Answer: C

Explanation:

* Implied consent is a form of consent that is inferred from the actions or inactions of the data subject, rather than explicitly expressed by the data subject¹.

* Implied consent is generally considered a valid basis for processing personal data under certain circumstances, such as when the processing is necessary for the performance of a contract, the legitimate interests of the data controller, or the reasonable expectations of the data subject².

* However, implied consent may not be sufficient for processing sensitive personal data, such as health, biometric, or genetic data, or for sending marketing communications, depending on the applicable laws and regulations².

* In the U.S., there is no comprehensive federal privacy law that regulates the use of implied consent for data processing, but there are sector-specific laws and state laws that may impose different requirements and limitations³.

* Based on the scenarios given in the question, the situation that is most likely to involve a company operating under the assumption of implied consent is A. An employer contacts the professional references provided on an applicant's resume.

* This is because the employer may reasonably infer that the applicant has consented to the contact of the references by voluntarily providing their information on the resume, and that the contact is necessary for the legitimate interest of the employer to verify the applicant's qualifications and suitability for the job⁴.

* The other situations may not involve implied consent, but rather require explicit consent or provide opt-out options for the data subjects, depending on the type and purpose of the data processing and the relevant laws and regulations⁵. For example:

* B. An online retailer subscribes new customers to an e-mail list by default. This may violate the CAN-SPAM Act, which requires online marketers to obtain affirmative consent from the recipients before sending commercial e-mail messages, and to provide a clear and conspicuous opt-out mechanism in every message⁵.

* C. A landlord uses the information on a completed rental application to run a credit report. This may violate the Fair Credit Reporting Act, which requires landlords to obtain written authorization from the applicants before obtaining their consumer reports, and to provide them

* with a copy of the report and a summary of their rights if they take any adverse action based on the report.

* D. A retail clerk asks a customer to provide a zip code at the check-out counter. This may violate the California Song-Beverly Credit Card Act, which prohibits retailers from requesting and recording personal identification information from customers who pay with a credit card, unless the information is necessary for a special purpose, such as shipping or fraud prevention.

References: 1: Implied Consent 2: Consent 3: U.S. Private-Sector Privacy (CIPP/US) 4: [Reference Checks:

Tips for Job Applicants and Employers] 5: [CAN-SPAM Act: A Compliance Guide for Business] : [Using Consumer Reports:

What Landlords Need to Know] : [California Song-Beverly Credit Card Act] : [Reference Checks: Tips for Job Applicants and

Employers] : [CAN-SPAM Act: A Compliance Guide for Business] :

[Using Consumer Reports: What Landlords Need to Know] : [California Song-Beverly Credit Card Act]

NEW QUESTION # 141

When designing contact tracing apps in relation to COVID-19 or any other diagnosed virus, all of the following privacy measures should be considered EXCEPT?

- A. User confidentiality.
- B. Use limitations.
- **C. Opt-out choice.**
- D. Data retention.

Answer: C

Explanation:

Contact tracing apps are designed to help public health authorities track and contain the spread of COVID-19 or any other diagnosed virus by notifying users who have been in close contact with an infected person.

However, these apps also raise privacy concerns, as they collect and process sensitive personal data, such as health status and location information. Therefore, contact tracing apps should follow the principles of privacy by design and default, which means that they should incorporate privacy measures into their development and operation, and offer the highest level of privacy protection to users.

Some of the privacy measures that should be considered when designing contact tracing apps are:

* Data retention: Contact tracing apps should only retain the personal data they collect for as long as necessary to achieve their public health purpose, and delete or anonymize the data afterwards. Data retention periods should be clearly communicated to users

and based on scientific evidence and legal requirements.

* Use limitations: Contact tracing apps should only use the personal data they collect for the specific and legitimate purpose of contact tracing, and not for any other purposes, such as commercial, law enforcement, or surveillance. Use limitations should be enforced by technical and organizational measures, such as encryption, access controls, and audits.

* User confidentiality: Contact tracing apps should protect the confidentiality of users' personal data and identity, and not disclose them to third parties without their consent or legal authorization. User confidentiality should be ensured by technical and organizational measures, such as pseudonymization, aggregation, and data minimization.

Opt-out choice, on the other hand, is not a privacy measure that should be considered when designing contact tracing apps, as it would undermine their effectiveness and public health objective. Contact tracing apps rely on voluntary participation and widespread adoption by users to function properly and achieve their purpose.

Therefore, offering users the option to opt out of the app or certain features, such as data sharing or notifications, would reduce the app's coverage and accuracy, and potentially expose users and others to greater health risks. Instead of opt-out choice, contact tracing apps should provide users with clear and transparent information about how the app works, what data it collects and how it uses it, what benefits and risks it entails, and what rights and controls users have over their data. This way, users can make an informed and voluntary decision to use the app or not, based on their own preferences and values.

References:

* [IAPP CIPP/US Study Guide], Chapter 2: Privacy by Design and Default, pp. 35-36.

* [IAPP CIPP/US Body of Knowledge], Section II: Limits on Private-sector Collection and Use of Data, Subsection B: Privacy by Design, pp. 9-10.

* [IAPP Glossary], Terms: Contact Tracing, Privacy by Design, Privacy by Default.

NEW QUESTION # 142

Which two FCRA rules were added with the Fair and Accurate Credit Transactions Act in 2003?

- A. Disposal Rule and Safeguards Rule
- B. Privacy Rule and Red Flags Rule
- C. Privacy Rule and Safeguards Rule
- **D. Disposal Rule and Red Flags Rule**

Answer: D

Explanation:

FACTA has introduced measures for identity theft protection, together with a Disposal Rule and a Red Flags Rule.

NEW QUESTION # 143

How did the Fair and Accurate Credit Transactions Act (FACTA) amend the Fair Credit Reporting Act (FCRA)?

- A. It required employers to get an employee's consent in advance of requesting a consumer report for internal investigation purposes Section: (none) Explanation
- B. It stipulated the purpose of obtaining a consumer report can only be for a review of the employee's credit worthiness
- **C. It increased the obligation of organizations to dispose of consumer data in ways that prevent unauthorized access**
- D. It expanded the definition of "consumer reports" to include communications relating to employee investigations

Answer: C

NEW QUESTION # 144

What type of material is exempt from an individual's right to disclosure under the Privacy Act?

- A. Material requires by statute to be maintained and used solely for research purposes.
- B. Material used to determine potential collaboration with foreign governments in negotiation of trade deals.
- **C. Material reporting investigative efforts to prevent unlawful persecution of an individual.**
- D. Material reporting investigative efforts pertaining to the enforcement of criminal law.

Answer: C

Explanation:

<https://www.dea.gov/foia/privacy-act-exemptions>

NEW QUESTION # 145

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