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IAPP Certified Information Privacy Professional/Europe (CIPP/E) Sample Questions (Q115-Q120):

NEW QUESTION # 115

SCENARIO

Please use the following to answer the next question:

BHealthy, a company based in Italy, is ready to launch a new line of natural products, with a focus on sunscreen. The last step prior to product launch is for BHealthy to conduct research to decide how extensively to market its new line of sunscreens across Europe. To do so, BHealthy teamed up with Natural Insight, a company specializing in determining pricing for natural products. BHealthy decided to share its existing customer information - name, location, and prior purchase history - with Natural Insight. Natural Insight intends to use this information to train its algorithm to help determine the price point at which BHealthy can sell its new sunscreens. Prior to sharing its customer list, BHealthy conducted a review of Natural Insight's security practices and concluded that the

company has sufficient security measures to protect the contact information. Additionally, BHealthy's data processing contractual terms with Natural Insight require continued implementation of technical and organization measures. Also indicated in the contract are restrictions on use of the data provided by BHealthy for any purpose beyond provision of the services, which include use of the data for continued improvement of Natural Insight's machine learning algorithms.

Under the GDPR, what are Natural Insight's security obligations with respect to the customer information it received from BHealthy?

- A. Absolute security since BHealthy is sharing personal data, including purchase history, with Natural Insight.
- **B. Appropriate security that takes into account the industry practices for protecting customer contact information and purchase history.**
- C. Only the security measures assessed by BHealthy prior to entering into the data processing contract.
- D. The level of security that a reasonable data subject whose data is processed would expect in relation to the data subject's purchase history.

Answer: B

Explanation:

According to Article 32 of the GDPR, the controller and the processor must implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk of the processing¹. The GDPR does not prescribe specific security measures, but rather provides a list of factors to consider when determining the appropriate level of security, such as:

- * The state of the art and the costs of implementation;
- * The nature, scope, context and purposes of processing;
- * The risk of varying likelihood and severity for the rights and freedoms of natural persons.

Therefore, the level of security required by the GDPR is not absolute, but relative to the specific circumstances of each processing activity. The GDPR also encourages the use of codes of conduct and certification mechanisms to demonstrate compliance with the security requirements¹.

In the scenario, Natural Insight is a processor who receives customer information from BHealthy, a controller, for the purpose of providing pricing services. Natural Insight has a contractual obligation to implement technical and organisational measures to ensure the security of the data, as well as to comply with the GDPR.

Natural Insight's security obligations are not limited to the measures assessed by BHealthy prior to entering into the contract, nor to the level of security that a reasonable data subject would expect. Rather, Natural Insight must take into account the industry practices for protecting customer contact information and purchase history, as well as the potential risks that may arise from the processing, such as data breaches, identity theft, fraud, or discrimination. Natural Insight must also keep up with the state of the art and the costs of implementation, and adjust its security measures accordingly.

References:

- * 4: Art. 32 GDPR Security of processing

NEW QUESTION # 116

SCENARIO

Please use the following to answer the next question:

Gentle Hedgehog Inc. is a privately owned website design agency incorporated in Italy. The company has numerous remote workers in different EU countries. Recently, the management of Gentle Hedgehog noticed a decrease in productivity of their sales team, especially among remote workers. As a result, the company plans to implement a robust but privacy-friendly remote surveillance system to prevent absenteeism, reward top performers, and ensure the best quality of customer service when sales people are interacting with customers.

Gentle Hedgehog eventually hires Sauron Eye Inc., a Chinese vendor of employee surveillance software whose European headquarters is in Germany. Sauron Eye's software provides powerful remote-monitoring capabilities, including 24/7 access to computer cameras and microphones, screen captures, emails, website history, and keystrokes. Any device can be remotely monitored from a central server that is securely installed at Gentle Hedgehog headquarters. The monitoring is invisible by default; however, a so-called Transparent Mode, which regularly and conspicuously notifies all users about the monitoring and its precise scope, also exists. Additionally, the monitored employees are required to use a built-in verification technology involving facial recognition each time they log in.

All monitoring data, including the facial recognition data, is securely stored in Microsoft Azure cloud servers operated by Sauron Eye, which are physically located in France.

What monitoring may be lawfully performed within the scope of Gentle Hedgehog's business?

- A. Everything offered by Sauron Eye's software, assuming employees provide daily consent to the monitoring.
- B. Only video calls conducted during business hours and emails that do not contain a "private" or "personal" tag.
- **C. Only emails, website browsing history and camera for internal video calls that are expressly marked as monitored.**
- D. Everything offered by Sauron Eye's software with the exception of camera and microphone monitoring.

Answer: C

Explanation:

The General Data Protection Regulation (GDPR) does not prohibit surveillance of employees in the workplace. Still, it requires employers to follow special rules to ensure that the rights and freedoms of employees are protected when processing their personal data. The GDPR applies to any processing of personal data in the context of the activities of an establishment of a controller or a processor in the EU, regardless of whether the processing takes place in the EU or not. The GDPR also applies to the processing of personal data of data subjects who are in the EU by a controller or processor not established in the EU, where the processing activities are related to the offering of goods or services to data subjects in the EU or the monitoring of their behaviour as far as their behaviour takes place within the EU.

The GDPR requires that any processing of personal data must be lawful, fair and transparent, and based on one of the six legal grounds specified in the regulation. The most relevant legal grounds for employee surveillance are the legitimate interests of the employer, the performance of a contract with the employee, or the compliance with a legal obligation. The GDPR also requires that any processing of personal data must be limited to what is necessary for the purposes for which they are processed, and that the data subjects must be informed of the purposes and the legal basis of the processing, as well as their rights and the safeguards in place to protect their data.

The GDPR also imposes specific obligations and restrictions on the processing of special categories of personal data, such as biometric data, which reveal racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, or which are processed for the purpose of uniquely identifying a natural person. The processing of such data is prohibited, unless one of the ten exceptions listed in the regulation applies. The most relevant exceptions for employee surveillance are the explicit consent of the data subject, the necessity for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law, or the necessity for reasons of substantial public interest.

The GDPR also sets out the rules and requirements for the transfer of personal data to third countries or international organisations, which do not ensure an adequate level of data protection. The transfer of such data is only allowed if the controller or processor has provided appropriate safeguards, such as binding corporate rules, standard contractual clauses, codes of conduct or certification mechanisms, and if the data subjects have enforceable rights and effective legal remedies.

Based on the scenario, the only monitoring that may be lawfully performed within the scope of Gentle Hedgehog's business is the monitoring of emails, website browsing history and camera for internal video calls that are expressly marked as monitored. This option is the most consistent with the GDPR's principles and requirements, as it:

Is based on the legitimate interests of the employer to ensure the productivity, quality and security of the work performed by the employees, as well as the performance of a contract with the employees and the compliance with a legal obligation to prevent fraud and protect confidential information.

Is limited to what is necessary for the purposes of the monitoring, as it only covers the work-related activities and communications of the employees, and excludes the private or personal ones.

Is transparent to the employees, as it informs them of the monitoring and its precise scope, and gives them the opportunity to object or opt out of the monitoring.

Does not involve the processing of special categories of personal data, such as biometric data or data revealing political opinions or trade union membership, which are not necessary or proportionate for the purposes of the monitoring.

Does not involve the transfer of personal data to a third country, such as China, which does not provide an adequate level of data protection, and which may pose additional risks for the rights and freedoms of the employees.

The other options listed in the question are not lawful monitoring within the scope of Gentle Hedgehog's business, as they:

Are not based on a valid legal ground for the processing of personal data, as they either rely on the consent of the employees, which is not freely given, informed and specific, or on the legitimate interests of the employer, which are not balanced with the rights and freedoms of the employees.

Are not limited to what is necessary for the purposes of the monitoring, as they involve the collection and processing of excessive and irrelevant personal data, such as camera and microphone monitoring, screen captures, keystrokes, and facial recognition data, which go beyond the scope of the work performed by the employees, and intrude into their private or personal sphere.

Are not transparent to the employees, as they do not inform them of the monitoring and its precise scope, and do not give them the opportunity to object or opt out of the monitoring.

Involve the processing of special categories of personal data, such as biometric data or data revealing political opinions or trade union membership, which are not necessary or proportionate for the purposes of the monitoring, and which do not fall under any of the exceptions listed in the regulation.

Involve the transfer of personal data to a third country, such as China, which does not provide an adequate level of data protection, and which may pose additional risks for the rights and freedoms of the employees.

References:

GDPR, Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 44, 45, 46, 47, 48, and 49.

EDPB Guidelines 3/2019 on processing of personal data through video devices, pages 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14.

EDPB Guidelines 07/2020 on the concepts of controller and processor in the GDPR, pages 19, 20, 21, 22, 23,

24, 25, 26, 27, and 28.

EDPB Guidelines 4/2019 on Article 25 Data Protection by Design and by Default, pages 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, and 28.

EDPB Guidelines 2/2018 on derogations of Article 49 under Regulation 2016/679, pages 4, 5, 6, 7, 8, 9, 10, 11, and 12.

Data protection: GDPR and employee surveillance | Feature | Law Gazette, paragraphs 1, 2, 3, 4, 5, 6, 7, and 8.

NEW QUESTION # 117

The transparency principle is most directly related to which of the following rights?

- **A. Right to object**
- B. Right to be informed.
- C. Right to be forgotten.
- D. Right to restriction of processing.

Answer: A

NEW QUESTION # 118

You have just been hired by a toy manufacturer based in Hong Kong. The company sells a broad range of dolls, action figures and plush toys that can be found internationally in a wide variety of retail stores.

Although the manufacturer has no offices outside Hong Kong and in fact does not employ any staff outside Hong Kong, it has entered into a number of local distribution contracts. The toys produced by the company can be found in all popular toy stores throughout Europe, the United States and Asia. A large portion of the company's revenue is due to international sales.

The company now wishes to launch a new range of connected toys, ones that can talk and interact with children. The CEO of the company is touting these toys as the next big thing, due to the increased possibilities offered: The figures can answer children's Questions: on various subjects, such as mathematical calculations or the weather. Each figure is equipped with a microphone and speaker and can connect to any smartphone or tablet via Bluetooth. Any mobile device within a 10-meter radius can connect to the toys via Bluetooth as well. The figures can also be associated with other figures (from the same manufacturer) and interact with each other for an enhanced play experience.

When a child asks the toy a question, the request is sent to the cloud for analysis, and the answer is generated on cloud servers and sent back to the figure. The answer is given through the figure's integrated speakers, making it appear as though that the toy is actually responding to the child's question. The packaging of the toy does not provide technical details on how this works, nor does it mention that this feature requires an internet connection. The necessary data processing for this has been outsourced to a data center located in South Africa. However, your company has not yet revised its consumer-facing privacy policy to indicate this.

In parallel, the company is planning to introduce a new range of game systems through which consumers can play the characters they acquire in the course of playing the game. The system will come bundled with a portal that includes a Near-Field Communications (NFC) reader. This device will read an RFID tag in the action figure, making the figure come to life onscreen. Each character has its own stock features and abilities, but it is also possible to earn additional ones by accomplishing game goals. The only information stored in the tag relates to the figures' abilities. It is easy to switch characters during the game, and it is possible to bring the figure to locations outside of home and have the character's abilities remain intact.

Why is this company obligated to comply with the GDPR?

- **A. The company's products are marketed directly to EU customers.**
- B. The company's data center is located in a country outside the EU.
- C. The company employs staff in the EU.
- D. The company has offices in the EU.

Answer: A

Explanation:

Verified answer: D. The company's products are marketed directly to EU customers.

According to section 6(1) of the GDPR, personal data shall be processed by organisations, which offer goods or services or otherwise carry out activities, in relation to which processing of personal data may be regarded as relevant for their legitimate interests. The legitimate interests referred to are those arising from the performance of a task carried out in their name or on their behalf, or for their own purposes. The legitimate interests referred to are those arising from the performance of a task carried out in their name or on their behalf, or for their own purposes. The legitimate interests referred to are those arising from the performance of a task carried out in their name or on their behalf, or for their own purposes. The legitimate interests referred to are those arising from the performance of a task carried out in their name or on their behalf, or for their own purposes. The legitimate interests referred to are those arising from the performance of a task carried out in their name or on their behalf, or for their own purposes.

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NEW QUESTION # 119

SCENARIO

Please use the following to answer the next question:

Jason, a long-time customer of ABC insurance, was involved in a minor car accident a few months ago.

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

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

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

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

ABC supplies Jason with a PDF and XML (Extensible Markup Language) versions of his No Claims Certificate, but tells Jason it cannot transfer his data directly to Xentron as this is not technically feasible. ABC also explains that Jason's contract included a provision whereby Jason agreed that his data could be used for marketing purposes; according to ABC, it is too late for Jason to change his mind about this. It angers Jason when he recalls the wording of the contract, which was filled with legal jargon and very confusing.

In the meantime, Jason is still receiving unwanted calls from Erbium Insurance. He writes to Erbium to ask for the name of the organization that supplied his details to them. He warns Erbium 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.

Erbium's response letter confirms Jason's suspicions. Erbium is ABC's wholly owned subsidiary, and they received information about Jason's accident from ABC shortly after Jason submitted his accident claim.

Erbium assures Jason that there has been no breach of the GDPR, as Jason's contract included a provision in which he agreed to share his information with ABC's affiliates for business purposes.

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

Which statement accurately summarizes ABC's obligation in regard to Jason's data portability request?

- A. ABC does not have to transfer Jason's data to Xentron because the right to data portability does not apply where personal data are processed in order to carry out tasks in the public interest.
- B. ABC has failed to comply with the duty to transfer Jason's data to Xentron because the duty applies wherever personal data are processed by automated means and necessary for the performance of a contract with the customer.
- C. ABC has failed to comply with the duty to transfer Jason's data to Xentron because it has an obligation to develop commonly used, machine-readable and interoperable formats so that all customer data can be ported to other insurers on request.
- D. ABC does not have a duty to transfer Jason's data to Xentron if doing so is legitimately not technically feasible.

Answer: A

NEW QUESTION # 120

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