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IAPP Certified Information Privacy Professional/Europe (CIPP/E) Sample Questions (Q298-Q303):

NEW QUESTION # 298
SCENARIO

Please use the following to answer the next question:

Building Block Inc. is a multinational company, headquartered in Chicago with offices throughout the United States, Asia, and Europe (including Germany, Italy, France and Portugal). Last year the company was the victim of a phishing attack that resulted in a significant data breach. The executive board, in coordination with the general manager, their Privacy Office and the Information Security team, resolved to adopt additional security measures. These included training awareness programs, a cybersecurity audit, and use of a new software tool called SecurityScan, which scans employees' computers to see if they have software that is no longer being supported by a vendor and therefore not getting security updates. However, this software also provides other features, including the monitoring of employees' computers.

Since these measures would potentially impact employees, Building Block's Privacy Office decided to issue a general notice to all employees indicating that the company will implement a series of initiatives to enhance information security and prevent future data breaches.

After the implementation of these measures, server performance decreased. The general manager instructed the Security team on how to use SecurityScan to monitor employees' computers activity and their location.

During these activities, the Information Security team discovered that one employee from Italy was daily connecting to a video library of movies, and another one from Germany worked remotely without authorization. The Security team reported these incidents to the Privacy Office and the general manager. In their report, the team concluded that the employee from Italy was the reason why the server performance decreased.

Due to the seriousness of these infringements, the company decided to apply disciplinary measures to both employees, since the security and privacy policy of the company prohibited employees from installing software on the company's computers, and from working remotely without authorization.

What would be the MOST APPROPRIATE way for Building Block to handle the situation with the employee from Italy?

- A. Since the GDPR does not apply to this situation, the company would be entitled to apply any disciplinary measure authorized under Italian labor law.
- B. Since this was a serious infringement, but the employee was not appropriately informed about the consequences the new security measures, the company would be entitled to apply some disciplinary measures, but not dismissal.
- **C. Since the employee was not informed that the security measures would be used for other purposes such as monitoring, the company could face difficulties in applying any disciplinary measures to this employee.**
- D. Since the employee was the cause of a serious risk for the server performance and their data, the company would be entitled to apply disciplinary measures to this employee, including fair dismissal.

Answer: C

Explanation:

According to the GDPR, the processing of personal data obtained through monitoring software must be lawful, fair, and transparent. This means that the employer must inform the employees about the nature, extent, and reasons for monitoring, and the possible consequences of non-compliance with the company's policies. The employer must also have a legitimate interest or another lawful basis for processing the employees' data, and respect their rights and freedoms. The employer must also comply with the national laws and guidelines of each member state where it operates, which may impose additional conditions or limitations on employee monitoring. In this case, Building Block did not inform the employee from Italy that the security software would also monitor his computer activity and location, and did not specify the purpose and scope of such monitoring. Therefore, the employee could not reasonably expect that his personal data would be processed in this way, and could not exercise his rights under the GDPR, such as the right to access, rectify, or object to the processing. Moreover, the employer did not conduct a proper assessment of the necessity and proportionality of the monitoring, and did not consider less intrusive alternatives to achieve its security goals. Therefore, the employer could face legal challenges from the employee, the Italian supervisory authority, or the labor courts, if it decides to apply disciplinary measures based on the data obtained through the monitoring software. The employer could also face fines or sanctions for violating the GDPR and the Italian data protection law. References: GDPR requirements for employee monitoring: rules to follow, Can Your Organisation Monitor Employees' Personal Communications?, ICO publishes guidance to ensure lawful monitoring in the workplace, [Guidelines on processing personal data in the context of connected vehicles and mobility related applications]

NEW QUESTION # 299

SCENARIO

Please use the following to answer the next question:

Liem, an online retailer known for its environmentally friendly shoes, has recently expanded its presence in Europe. Anxious to achieve market dominance, Liem teamed up with another eco friendly company, EcoMick, which sells accessories like belts and bags. Together the companies drew up a series of marketing campaigns designed to highlight the environmental and economic benefits of their products. After months of planning, Liem and EcoMick entered into a data sharing agreement to use the same marketing database, MarketIQ, to send the campaigns to their respective contacts.

Liem and EcoMick also entered into a data processing agreement with MarketIQ, the terms of which included processing personal

data only upon Liem and EcoMick's instructions, and making available to them all information necessary to demonstrate compliance with GDPR obligations.

Liem and EcoMick then procured the services of a company called JaphSoft, a marketing optimization firm that uses machine learning to help companies run successful campaigns. Clients provide JaphSoft with the personal data of individuals they would like to be targeted in each campaign. To ensure protection of its clients' data, JaphSoft implements the technical and organizational measures it deems appropriate. JaphSoft works to continually improve its machine learning models by analyzing the data it receives from its clients to determine the most successful components of a successful campaign. JaphSoft then uses such models in providing services to its client-base. Since the models improve only over a period of time as more information is collected, JaphSoft does not have a deletion process for the data it receives from clients. However, to ensure compliance with data privacy rules, JaphSoft pseudonymizes the personal data by removing identifying information from the contact information. JaphSoft's engineers, however, maintain all contact information in the same database as the identifying information.

Under its agreement with Liem and EcoMick, JaphSoft received access to MarketIQ, which included contact information as well as prior purchase history for such contacts, to create campaigns that would result in the most views of the two companies' websites. A prior Liem customer, Ms. Iman, received a marketing campaign from JaphSoft regarding Liem's as well as EcoMick's latest products. While Ms. Iman recalls checking a box to receive information in the future regarding Liem's products, she has never shopped EcoMick, nor provided her personal data to that company.

Which of the following BEST describes the relationship between Liem, EcoMick and JaphSoft?

- A. EcoMick and JaphSoft are a controller and Liem is a processor because EcoMick is sharing its marketing data with Liem for contacts in Europe.
- B. JaphSoft is the sole processor because it processes personal data on behalf of its clients.
- **C. Liem and EcoMick are joint controllers because they carry out joint marketing activities.**
- D. Liem is a controller and EcoMick is a processor because Liem provides specific instructions regarding how the marketing campaigns should be rolled out.

Answer: C

Explanation:

According to the UK 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" 1. One of the requirements for consent to be informed is that the data subject should be aware of the identity of the controller who is processing the personal data 2. In this scenario, Ms. Iman only gave consent to Liem to process her personal data for marketing purposes, but she was not informed that JaphSoft, a third-party controller, would also access and process her personal data. Therefore, her consent was not valid in regard to JaphSoft, as she did not know who was processing her personal data and for what purposes. References:

* UK GDPR Article 4 (11)

* UK GDPR Recital 42

NEW QUESTION # 300

A company plans to transfer employee health information between two of its entities in France. To maintain the security of the processing, what would be the most important security measure to apply to the health data transmission?

- A. Ensure that the receiving entity has signed a data processing agreement.
- **B. Encrypt the transferred data in transit and at rest.**
- C. Conduct a data protection impact assessment.
- D. Inform the data subject of the security measures in place.

Answer: B

Explanation:

According to Article 32 of the GDPR, the controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including the pseudonymisation and encryption of personal data. Encryption is a key security measure to protect the confidentiality, integrity and availability of personal data, especially when it is transferred between different entities or locations. Encryption ensures that only authorised parties can access and modify the data, and prevents unauthorised or unlawful access, disclosure, alteration or destruction. Encryption also reduces the risk of data breaches and the potential harm to the data subjects. Therefore, encrypting the transferred data in transit and at rest would be the most important security measure to apply to the health data transmission. Reference:

Article 32 of the GDPR

IAPP CIPP/E Study Guide, page 58

NEW QUESTION # 301

Which area of privacy is a lead supervisory authority's (LSA) MAIN concern?

- A. Special categories of data
- **B. Cross-border processing**
- C. Data subject rights
- D. Data access disputes

Answer: B

Explanation:

A lead supervisory authority (LSA) is the main point of contact for organisations that process personal data across multiple EU member states. The LSA is responsible for coordinating cross-border investigations, issuing binding decisions, and enforcing GDPR compliance¹. Cross-border processing is the main concern of the LSA, as it involves data processing activities that affect data subjects in more than one member state, or that take place in more than one member state². The other options are not the main concern of the LSA, as they are either covered by the national supervisory authorities of each member state, or are not specific to cross-border processing. References: Is it possible to choose your lead supervisory authority under the GDPR?, Art. 56 GDPR - Competence of the lead supervisory authority, Navigating GDPR Compliance with a Lead Supervisory Authority, Guidelines 8/2022 on identifying a controller or processor's lead supervisory authority Reference: <https://iapp.org/news/a/is-it-possible-to-choose-your-lead-supervisory-authority-under-the-gdpr/>

NEW QUESTION # 302

A U.S.-based online shop uses sophisticated software to track the browsing behavior of its European customers and predict future purchases. It also shares this information with third parties. Under the GDPR, what is the online shop's PRIMARY obligation while engaging in this kind of profiling?

- A. It must be able to demonstrate a prior business relationship with the customers
- **B. It must solicit informed consent through a notice on its website**
- C. It must prove that it uses sufficient security safeguards to protect customer data
- D. It must seek authorization from the European supervisory authorities

Answer: B

Explanation:

The GDPR defines profiling as any form of automated processing of personal data to evaluate certain personal aspects relating to a natural person, such as their preferences, behaviour, or interests¹. Profiling is subject to the general principles and rules of the GDPR, such as lawfulness, fairness, transparency, purpose limitation, data minimisation, accuracy, storage limitation, integrity, and confidentiality². The GDPR also provides specific rights for data subjects who are subject to profiling, such as the right to be informed, the right to access, the right to rectify, the right to object, and the right to not be subject to a decision based solely on automated processing, including profiling, which produces legal or similarly significant effects on them³.

In the given scenario, the online shop is engaging in profiling by tracking the browsing behaviour of its European customers and predicting future purchases. It is also sharing this information with third parties, which may involve further processing of the personal data. Therefore, the online shop must comply with the GDPR requirements for profiling and ensure that it has a valid legal basis for the processing. According to Article 6 of the GDPR, there are six possible legal bases for processing personal data: consent, contract, legal obligation, vital interests, public interest, or legitimate interests⁴. However, not all of them are equally applicable or appropriate for profiling activities, especially when they involve sensitive or special categories of data, such as biometric, genetic, or health data, which require additional safeguards under Article 9 of the GDPR⁵.

In this case, the most relevant and suitable legal basis for the online shop's profiling is consent, which means that the data subject has given a clear and affirmative indication of their agreement to the processing of their personal data for one or more specific purposes⁶. Consent must be freely given, specific, informed, and unambiguous, and must be obtained before the processing begins⁷. The online shop must also inform the data subject about the nature and purpose of the profiling, the logic involved, the consequences, and the rights they have in relation to it. The online shop must also respect the data subject's right to withdraw their consent at any time and to object to the profiling.

Therefore, the online shop's primary obligation while engaging in this kind of profiling is to solicit informed consent through a notice on its website, which must be clear, concise, and easily accessible, and must not be bundled with other terms and conditions. The online shop must also provide a simple and effective mechanism for the data subject to give or revoke their consent, such as a checkbox, a slider, or a button. The online shop must also keep records of the consent obtained and be able to demonstrate that it has complied with the GDPR requirements for consent.

The other options (B, C, and D) are not the primary obligation for the online shop, as they are either irrelevant or insufficient for the

GDPR compliance. Seeking authorization from the European supervisory authorities is not necessary, unless the online shop is involved in a cross-border processing that requires a prior consultation under Article 36 of the GDPR. Demonstrating a prior business relationship with the customers is not a valid legal basis for the profiling, as it does not imply consent or legitimate interests. Proving that it uses sufficient security safeguards to protect customer data is a general obligation for any processing of personal data, but it does not address the specific issues and risks of profiling, such as discrimination, manipulation, or loss of control. References:

* 1: What is automated individual decision-making and profiling?

* 2: Article 5 of the GDPR

* 3: Rights related to automated decision making including profiling

* 4: [Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)]

* 5: Article 9 of the GDPR

* 6: Article 4 (11) of the GDPR

* 7: Article 7 of the GDPR

* : Article 13 and 14 of the GDPR

* : Article 21 of the GDPR

* : Article 12 of the GDPR

* : [Guidelines on consent under Regulation 2016/679]

* : Article 24 of the GDPR

* : Article 36 of the GDPR

* : [Guidelines on Automated individual decision-making and Profiling for the purposes of Regulation 2016/679]

* : [https://edpb.europa.eu/sites/edpb/files/files/file1/edpb_guidelines_202005_consent_en.pdf]

* : [https://edpb.europa.eu/sites/edpb/files/files/file1/20171104_wp251rev01_en.pdf]

NEW QUESTION # 303

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