1. **Charlotte**

Further to the contravention of the data subject’s right to erasure, Virgin Media Ireland Limited had no justification for utilising the complainant’s personal data for continued marketing as consent had been withdrawn (Data Protection Commission, 2020). Whilst it is clear in the case of Virgin Media Ireland Limited that appropriate processes were not in place or followed to make the withdrawal of consent available to the complainant, sometimes the availability of these mechanisms does not translate to usability (Habib et al., 2020). This ultimately leads to the same outcome of rights of the data subject not being exercised in line with the GDPR.

The GDPR focusses on usability and states that “it shall be as easy to withdraw as to give consent” (EUR-Lex, 2016: Article 7). However, in practice opt-out options can be difficult to access and confusing for consumers. This not only breaches Article 7 but it can also lead to reputational damage for the company by frustrating consumers and leading them to report marketing as spam.

References

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Habib, H. et al. (2020) ‘It's a scavenger hunt: Usability of Websites' Opt-Out and Data Deletion Choices’, *CHI Conference on Human Factors in Computing Systems*. New York, USA, 25-30 April. Association for Computing Machinery. 1-12.

1. **Jan**

Further to Jan’s recommendations and as per Article 12, processes should be implemented for staff to record and appropriately action any data subject access request (DSAR) to ensure none are missed (EUR-Lex, 2016). This is particularly important where the data is only available for a set amount of time, as can be seen in this case study (Data Protection Commission, 2020). Furthermore, training regarding DSARs should be completed by all staff as a business has only one month to provide a response to the initial request under the GDPR and this request could go to any member of staff, either verbally or in writing, and they must therefore be able to recognise this type of request (ICO, N.D.).

Under the GDPR, businesses can no longer charge for processing DSARs as was common practice before the directive, therefore Jan’s point on funding is particularly poignant and businesses must set aside appropriate funding to conduct this duty under GDPR. Funding should also consider methods for providing the data as this should match the way the data is requested. If it was requested electronically, over email for example, then the data should be provided electronically to ensure that the data subject can access it. With personal data taking many forms, businesses should ensure they have suitably secure mechanisms in place for sharing these different formats with due consideration for accessibility.

References

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