Case Study: Introduction to Data Protection 2022

Ask me ping me ring me ("**AMPER**") is an innovative marketing company from Kentucky, USA. It provides its customers, usually consumer brands, with consumer polls in aggregated form. Consumers are asked to answer a couple of questions online and gain virtual coins and trophies for asking as many consumer polls as possible. Typically, the polls consist of some gating questions relating to demography (sex, age, location, income) and questions relating to products. AMPER's clients define the demography and the questions to ask.

For example, a poll by a customer might ask female Swedes in the age range of 20-25 about their favourite fast-food restaurants in Malmö, different burger options etc. AMPER collects the data and aggregates it. Reports are only shared with AMPER's customers in aggregated form and if at least 5 people answer. AMPER retains the data in pseudonymous form, i.e. it does not store the name of a consumer or information on the demography, only the IP address the user is coming from, as it is important to make sure to hit the right geography. When a consumer enters AMPER's website (they advertise on social media) a random ID is created (e.g. 7987997), which is used in all polls distributed by AMPER. AMPER made the choice that all its data is stored in a cloud service provider YELLOW RIVER in Germany. The data can be accessed by AMPER 's staff in the headquarters

So far, AMPER's business has been cantered around North America, with some customers also from China and New Zealand. AMPER's CEO Tiina Turbulence („**T**") is concluding cooperation's with European customers, among others **MekkoMikko**, a Finnish cloth brand and **SULAR**, a brand that sells fitness watches.

Student S has heard about data protection in an university course. After having answered several dozen polls (gaining a platinum crown on his AMPER profile!), S started to feel a bit of regret about having given so many rather personal answers. In the past month, S had answered polls about favourite flowers, music, Kendo, scissors and which dating app he prefers. He also answered questions on design of cloths that came from MekkoMikko (the name was not disclosed to him) and information on his fitness (resting heart rate, maximum heart rate and favourite sports). That came from SULAR and the name Sular Super was mentioned in the pool and the questions were attributed to SULAR.

After S realized that the platinum crown is only virtual, he wants to take control over his life. He contacts AMPER with the request to (a) learn more about the processing including the international data transfers, (b) stop the processing of personal data, (c) have existing personal data of him deleted and (d) stop any international data transfers.

With the help of the data protection department at AMPER, T sends a letter in which she argues the following:
1. The data processed is not personal data, in particular customers only receive aggregated reports. On top of that, there must be 5 consumers answering so there is no way to backtrack who answered. In most cases neither receiving entity nor the individual filling out the questionnaire know of each other.
2. Even if the data was to be considered personal data, AMPER is not the controller of the personal data. S should turn to the controller, in this case SULAR and MekkoMikko among others.
3. By registering at the AMPER website, S had consented to the following: "Dear participants, if you give your consent, you will not be able to withdraw it later. Think carefully.". Even if AMPER was a controller for parts of the data, the processing was based on consent and therefore everything was okay.
4. There is no transfer of personal data, which is why Chapter V of the GDPR is not applicable.
5. Therefore, S has no rights under the GDPR, in particular no one can stop international data transfers.

INSTRUCTIONS
Draft an answer to AMPER on behalf of S. Address the points raised and argue why S may exercise his data subject rights. If you believe that AMPER is correct, state that you agree with the point made and explain why.

Note:
* Answer only to the issues raised based on the reading material, class, and additional sources like EDPB guidance.
* Write 3000-4000 words (including footnotes).
* Submit the answer in MyCourses in word format (so I can check how many words) **before** the 24th of October 2022 at 8 pm.