

## Mock Exam Question

Consider the following scenario:

HairLess (HL) is a company incorporated in the Federal Republic of Germany (FRG) with its head office in Düsseldorf. The company is in the business of promoting the sale of hair-removal products. HL maintains a website hosted on a server in the United Kingdom. The opening page of the website provides basic information about the operations of the company. At the same time, the website is configured such that visitors to the website who wish to access webpages providing detailed information about the products offered by HL, must first register their email address with the website. Immediately after a visitor specifies his/her email address, a message pops up on the screen of the webpage stating that he/she will now be able to receive information from HL's products in the future.

HL plans to move actively into the Norwegian market. In anticipation of this move, HL engages an Oslo-based marketing agency to advertise a new range of hair-removal products sold by HL. The agency pays for large advertising posters to be put up on billboards in Oslo during the springtime. The billboard advertising also specifies the HL domain name, <www.haless.com>.

In another move, HL passes on the list of email addresses it has gathered from its website operations to a subsidiary company, HairFull (HF). The latter company is based in the USA. HF then repeatedly sends emails to those addresses about a new product it is selling. This product is a special type of razorblade that is customized for use under armpits and is advertised with the following words: "Clears the worst armpit jungle in one swipe".

Ola, who lives in Oslo, has had his email address registered at the HL website because he is a keen cyclist who likes to find out about possible new ways to keep his legs free of hair. He receives a large number of emails sent by HF. Ola contacts the office of the Norwegian Data Protection Authority (Datatilsynet) to complain about these emails. What irritates him about the emails is not just that they are 'clogging up the mail system' (his words) but that they carry a wrongful imputation that he has a lot of hair in his armpits. Ola is rather vain and prides himself on his relatively hair-free body.

You are the officer at the Norwegian Data Protection Authority who deals with Ola's complaint. What advice would you give as to whether HL or HF has acted in breach of the data protection legislation in Norway and why would you give that advice? You may use the provisions of Directive 95/46/EC as the basis for your answer (i.e., you do not have to know and apply the actual rules of the Norwegian Personal Data Act of 2000 (Personopplysningsloven) but you may assume that these are basically the same as those in the Directive).