



Data Protection Moot Court (DPMC) Case

Variant 1: Data Subject Teams

7 October 2024

Data Driven

Life has not been easy on Linda recently. Shortly after her fiftieth birthday, her husband left her for a co-worker. What's more, Linda is increasingly frustrated with her well-paid but stressful job as a quality manager for a large supermarket chain in Randomistan's huge and bustling capitol Randomia.

Following her therapist's advice, Linda books a two week stay in the mental health retreat *GetWell* in the picturesque village of Moutainville. She hopes that an extended period of yoga, healthy food, spa time and walks in the lush nature will improve her constitution and allow her a fresh start with renewed energy.

Mountainville is located in a vast and mountainous nature conservation area in the heart of Randomistan – far, far away from any stressful urban areas. Next to the *GetWell* retreat, Moutainville basically consist of a couple of farms and an old church and has a population of less than 400 inhabitants. Getting to the secluded village is not easy. After some research, Linda decides to take a one-hour flight south to Coasttown and then rent a car to cover the remaining **180 kilometers** to Moutainville.

On **15 August 2024**, Linda lands in Coasttown. The city's airport is relatively small and there is only one provider of rental cars: *ChEap-Car*. Linda remembers *ChEap-Car* from radio commercials, where the company never tires of boasting that they are the only car rental company in Randomistan with a fleet consisting of only electric cars that also feature top level active driving assistants.

At *ChEap-Car's* service desk, a friendly young man with a name tag saying "Steve" informs Linda that the company currently only holds one type of car, the so called *E-Blitz Next Level*, an electric compact car provided by the German car manufacturer *E-Blitz AG*. Steve explains that *ChEap-Car* offers three modes of rental:

- The ***sporty mode***, which costs **€ 25 per day** and includes a "data donation" by the customer that especially helps *ChEap-Car* and the car manufacturer to improve their products and services. In the sporty mode, the full performance of the car is unlocked, which means the car has a range of **440 kilometers** and engine power of **200 kilowatts**. Steve informs her that most customers choose the sporty mode because it "*makes you feel the full power of the E-Blitz*".
- For those who want to take it easier, there is the ***relaxed mode***, which costs **€ 32 per day** and does not involve any data sharing. In this mode, the car's range is set to **220 kilometers** and the engine power to **80 kilowatts**.
- Lastly, there is the ***premium mode*** which comes in at **€ 96 per day** and does not entail any caps on the car's performance (so the car's range is **440 kilometers** and its engine power **200 kilowatts**) and does not involve data sharing.

Linda is afraid of being stranded in Mountainville without the possibility to properly recharge the *E-Blitz*. As she considers the price for the *premium version* an outrageous rip-off, she decides to choose the *sporty version* and (truthfully) enters the following information into a tablet offered by Steve:

First Name	Linda
Second Name	Walthers
Date of Birth	22.05.1974
Email	lindawalthers1974@provider.rd
Address	Homestreet 22/3/17, 679 Randomia
Driver's License Number	DL 36304 KM10
Start of use	15.08.2024
End of use	29.08.2024
I accept the terms and conditions ¹ and the privacy policy ² [Hyperlinks] ³	Yes
I accept to provide a data donation to ChEap-Car (<i>Sporty Mode</i> only) for the purposes of improving the services of ChEap-Car and its partners and providing the user with personalized offers, recommendations and vouchers. I note that I can withdraw this consent at any time. Such withdrawal shall not affect the lawfulness of processing based on my consent before its withdrawal. Details can be found in ChEap-Cars privacy policy [Hyperlink]. ⁴	Yes
Signature	<i>L Walthers</i>



(AI generated image)

¹ See **Attachment 1**.

² See **Attachement 2**.

³ Clicking the Hyperlink opens a pop-up that allows the user to read the relevant documents directly on the tablet screen.

⁴ See above.

After Linda has signed the document on the tablet touchscreen, Steve makes a copy of her ID card and her driver's license. Linda pays a deposit of € 650 and the rent of € 350 for 14 days up front and receives the following email from noreply@cheapcar.rd:

Dear Linda,

We are happy to welcome you to ever-growing family of ChEap-Car users. You chose the sporty mode, so be prepared to feel the full power of the E Blitz! :D We also thank you for donating your data!

Should you have any questions, please do not hesitate to contact us: support@cheapcar.rd

Blitz regards ;)

Your ChEap-Car team

[Attachment: Receipt 2024-08-15- PO8G_CT 6279 QE_COASTT]

Steve shows her to the *E-Blitz* – and off to Mountainville Linda goes.

The first half hour, she spends in a traffic jam. After finally getting on the motorway, Linda activates the car's automatic driving assistant. She is surprised by how well this system manages to keep the car in its lane and automatically breaks or accelerates to keep the distance to other road users. However, when a group of motorcyclists overtake her with a roar, the automatic driving assistant performs a completely unnecessary emergency break that almost leads to the car behind Linda crashing into her. Linda switches off the assistant.

After leaving the motorway and driving up steep mountain roads with numerous hairpin bends for almost an hour, Linda finally reaches the *GetWell* retreat in Mountainville. The receptionist walks Linda through the program offered at *GetWell* and also mentions that guests can use the hotel's wall boxes to recharge their cars for free.

In the following two days, Linda uses the *E-Blitz* to drive to hiking trails and to a small indie music festival in the town of Cultureville some 40 kilometers away from Mountainville. When Linda first plugs the *E-Blitz* into the charging box on the morning of **18 August 2024**, she remembers that she does not need to worry about the car's reach anymore and writes the following email to dataprotection@cheapcars.rd (using her email lindawalthers1974@provider.rd):

Good evening,

I am currently renting an E-Blitz from you. Number plate: CT 6279 QE.

While I am quite upset that this will apparently limit the car's battery and engine, I kindly ask you to stop tracking me. My driver's license no. is DL 36304 KM10.

Kind regards,

Linda Walthers

On **24 August 2024** at 10:34 am, Linda receives the following reply from support@cheapcar.rd:

Dear Ms Walthers,

Thank you for your message. We are sorry that you decided to end your data donation! As this also ends your sporty mode subscription effective immediately, we kindly ask you to transfer € 42 to our bank account with the IBAN RD76 9289 0123 2034 0221 to switch to the relaxed mode. Upon receipt of payment the change will be executed.

Kind regards,

Your ChEap-Car team

Linda only reads this email on **27 August 2024** after lunch, as she has been on a digital detox and had her phone switched off. She is confused and tries to call ChEap-Cars's customer support several times, but cannot reach anyone. At 3:54 pm she replies to support@cheapcar.rd:

Hello,

Can you please just stop tracking me? When I signed the form to rent the car, I was informed that I can withdraw consent to this data donation thing at any time. "Any time" was a couple of days ago, when I first texted you!

Thanks, Linda Walthers

On **29 August 2024** at 2:30 pm – Linda is already on her way back to the airport of Coastville and currently on a toilet break – she receives the following reply:

Dear Ms Walthers,

We confirm that we have changed your subscription model to the relaxed mode. Please be so kind as to pay the remainder of € 7 upon return of your car.

Kind regards,

Your ChEap-Car team

Once she resumed her journey to the airport, Linda realizes that the car accelerates worse than before. Furthermore, the remaining range has gone down from 200 kilometers to a mere 100 kilometers. With the airport of Coastville still 92 kilometers away, Linda barely manages to get there. She returns the *E-Blitz*, but refuses to pay any further money. After consulting with his superior, the service desk person – again it's Steve – waives the remaining € 7.

In the following weeks back in Randomistan, Linda receives between two to seven advertisement mails per day to her email address Lindawalthers1974@provider.rd – way more than usual, including:

- a 25% voucher from ChEap-Car for renting an *E-Blitz Offroad*, the latest all-wheel electric SUV perfect for mountainous areas
- a limited offer for a yoga camp in Portugal in January 2025
- an offer from an Austrian sports outlet for traditional hiking shoes, 20% off
- an email with a link to the Instagram account of a self-proclaimed "healthfluencer" that shares videos on how to maintain a healthy work-life balance.

Linda is annoyed. She feels that she has been manipulated into handing over her data to ChEap-Car and now has to live with these annoying adverts. On the morning of **23 September 2024**, Linda calls ChEap-Car's support and – to her surprise – gets through after only a few minutes of waiting. After

identifying herself by mentioning her name and driver's license number, Linda asks the customer agent to stop these ads immediately. The customer agent assures her that she will receive no further advertising emails from ChEap-Car. However, if Linda wants to stop advertising emails from other companies, she would need to contact them directly.

Linda comes to your law firm and asks you to lodge a complaint against ChEap-Car to have her data protection rights upheld. In her view, she was allured into using the "sporty mode" and that data donation stuff was surely illegal!

Please note the following:

- Assume that the CheAp-Cars terms and conditions are lawful under European consumer protection law and the law of Randomistan.
- The case brought to you must be reviewed based on the GDPR, and your complaint must be drafted in accordance with Article 77 GDPR.
- Be aware of the competence of the DPA of Randomistan, which only has the tasks and powers assigned under Articles 57 and 58 GDPR.
- In any case, make sure to comply with point 8 of the [Rule Book](#).

ATTACHMENT 1**Terms and Conditions of ChEap-Car (excerpt)****1. Scope**

These terms and conditions apply to all rental agreements concluded between ChEap-car Ltd (“we”/“us”) and non-commercial users.

[...]

3. Rental Modes

We offer different modes for car rental:

In the relaxed mode, the car’s motor power and access to the battery charge are reduced by up to 60% via remote access by the local rental facility. All customers are entitled to choose the relaxed mode.

In the sporty mode, no limits are applied on the car’s performance. Only customers that have agreed on a data donation as outlined in our privacy policy are entitled to choose the sporty mode. The customer agrees to refrain from using any technical means that might prevent or impair data donations. In the event of the customer ending his or her data donation during the rental period, we are entitled to switch the usage mode to the relaxed mode.

In the premium mode, no limits are applied on the car’s performance. Only customers that agree on paying the premium fee of three times the relaxed modes’ fee are entitled to choose the premium mode.

Customers may switch usage modes during rental by contacting customer support. A switch to a different mode will be executed via remote access by the local rental facility as soon as any missing amount is credited to our account or – in case of a switch to sporty mode – as soon as commencing a data donation has been accepted by the customer.

4. Prices and Payment

Rental costs and deposit costs are set by the local rental facility and must be paid in advance. For customers under the age of 24 or above the age of 70 the local rental facility is entitled to charge an additional risk-fee of up to 12 percent.

Furthermore, we reserve the right to charge an additional risk-fee of up to 15 percent for recurring customers if the car’s automatic driving assistant has registered dangerous driving behavior during previous car rentals under the sporty mode.

[...]

7. Automatic Driving Assistant

All our cars are equipped with an automatic driving assistant (ADA) that can be switched off at any time using the yellow “ADA”-button to the left of the steering wheel. Deactivation of the ADA does not affect data donations to the car manufacturer as outlined in our privacy policy.

The customer acknowledges that the ADA is only a supportive tool and is not capable of driving the car autonomously. Details can be found under www.e-blitz-germany.de/ada/en.

ATTACHMENT 2**Privacy Policy of ChEap-Car**

This privacy policy explains which data we (ChEap-car Ltd., Roadstreet 36, 679 Randomia, Randomistan, support@cheapcar.rd) collect, use and share as a data controller when you rent a car from us.

1. Processed Data, Purpose and Legal Basis**1.1. Contract Performance**

We collect your name, date of birth, address, email address, driver's license information and payment information in order to conclude and perform the car rental agreement subject to our terms and conditions.

The legal basis for this processing are Article 6(1)(b) and (f) of the General Data Protection Regulation (GDPR).

1.2. Data Donations

If you consent to providing a data donation in connection with the sporty mode, we also collect (i) geolocation data (using the car's built-in GPS-tracker), (ii) driving behavior, (iii) times and duration of usage and charging and (iv) the use of additional features and connected devices.

The purposes of these processing activities lie in (i) improving our services and the services and products of the car manufacturer (E-Blitz AG) and (ii) providing you with personalized offers, recommendations and vouchers, both from us and from our partners. We and our partners might use profiling for achieving these purposes.

The legal basis for these processing activities is your consent under Article 6(1)(a) GDPR. Please note that withdrawal of consent for data donations does not affect the lawfulness of processing based on consent before its withdrawal.

For the provision of personal personalized offers, recommendations and vouchers that are not based on donated data, we rely on Article 6(1)(f) GDPR where we and our partners determine that we have a legitimate interest to process your data for that purpose.

2. Sources, Recipients and Transfers outside the European Economic Area

We only collect data from you directly or (subject to your consent) in connection with your usage of the car as outlined in Point 1.2.

For the purposes outlined in Point 1.2. we might share your donated data with E-Blitz AG, Autostraße 12, 12345 Motorstadt, Germany and with our advertisement partners. Please note that data donations transferred prior to the withdrawal of consent might still be used by a recipient for that purpose. If you have any questions regarding such processing activities, we kindly ask you to contact the recipient.

We do not transfer your data to any third country or international organization.

3. Storage Period/Criteria:

We store your data for three years after the end of the car rental agreement. In the event of a legal dispute concerning your data, we will store your data for up to one year after the legal settlement of the dispute.

4. Your Rights:

You have the right to (i) request access to your data, (ii) request rectification of your data, (iii) request erasure of your data, (iv) object to processing based on legitimate interest and (v) data portability regarding data which you have provided to us. Please send any requests to our data protection officer: data.dataprotection@cheapcars.rd.

You also have the right to lodge a complaint with the Randomistanian Data Protection Authority (RDA), Dataprotectionstreet 1, 679 Randomia, Randomistan if you think that we have infringed your data protection rights.