



Dubai International Financial Centre Authority

Commissioner of Data Protection (the “Commissioner”)

Directions Regarding Activities Related to Regulation 9 of the DIFC Data Protection Regulations (the “Data Protection Regulations”) and the Data Protection Law, DIFC Law No. 5 of 2020 (the “Data Protection Law”)¹

Introduction

1. The Directions (as defined below) by the Commissioner are in relation to processing activities of Controllers and Processors in the Careem group who operate on a regular basis in the DIFC (each entity and collectively, the “Careem Group”) and where such operations take place as part of ongoing stable arrangements referred to in Article 6(3)(b) of the Data Protection Law, including collecting and Processing of Personal Data obtained in the DIFC and/or in respect of individuals based in or riding to the DIFC (the “DIFC Data Subjects”) primarily for the purposes of Digital Communications and Services as defined in Regulation 9 of the Data Protection Regulations.

Contraventions

2. Subsequent to undertaking reasonable and necessary investigations of the Careem Group website (the “Careem Website”), application (the “Careem App”) and emails for the purposes of Article 59(1) and applying Article 6(3)(b) of the Data Protection Law, the Commissioner is satisfied on the basis of a Data Subject’s complaint together with information within his knowledge, that Careem Group entities have engaged in certain activities, including but not limited to Digital Communications and Services in the DIFC, and in doing so have contravened the Data Protection Law and the DIFC Data Protection Regulations (September 2023 Version), including in respect of the following:

¹ Capitalised terms or phrases used herein that are not expressly defined are used in accordance with their stated definitions in the Data Protection Law and/or the DIFC Data Protection Regulations (September 2023 Version), whichever is applicable.

Information Provision and Lawful Basis Contraventions

- (a) Information Provision / Lawful Basis (general): Failing to provide DIFC Data Subjects with clear and plain language about the lawful basis for Processing their Personal Data, which is a contravention of Article 29 of the Data Protection Law. (see Screen Shot 1 and Link at Appendix 1)
- (b) Lawful basis for Digital Communications and Services Marketing in the DIFC: Failing to provide information about whether Personal Data will be used for the purposes of enabling Digital Communications and Services in a concise, transparent, intelligible and easily accessible form, using clear and plain language, at the time of collecting it in accordance with Regulation 9.2.1 (see Screen Shot and Link 1 at Appendix 1)
- (c) Two Contact Methods for Exercising Rights: Failing to provide a minimum of two contact methods to DIFC Data Subjects to allow them to exercise their subject access rights, which is a contravention of Article 40 of the Data Protection Law (see Screen Shots 2 (a) through (e) at Appendix 1)

Consent and Preferences Contraventions

- (d) Lack of Opt In / Out on First Collection: Denying DIFC Data Subjects the opportunity to refuse or opt out of receiving Digital Communications and Services the first time a Careem Group Controller collected their Personal Data for specific purposes, which is a contravention of Regulation 9.2.2 of the Data Protection Regulations (see Screen Shot 3 at Appendix 1).
- (e) Bundled or Implied Consent: Denying DIFC Data Subjects the opportunity to undertake a clear affirmative act that shows an unambiguous indication of freely given consent by a Data Subject to use the Personal Data for specific, distinguishable purposes or for one or more matters not expressly concerned with the Processing of Personal Data, which is a contravention of Regulation 9.3.1 of the Data Protection Regulations (see Screen Shot 4 at Appendix 1).
- (f) Unsubscribe Unavailable / Unclear or Convolutd Opt-Out aka "Dark Patterns": Failing to provide an unsubscribe link or other easily accessible way for DIFC Data Subjects to opt out of Digital Communications and Services, which is in contravention

of Regulation 9.3.4(a), (c) or (d) of the Data Protection Regulations, whichever applies (see Screen Shot 5(a) through (i) at Appendix 1).

- (g) Consent Withdrawal / Lack of straightforward, accessible means of contact for exercising Data Subjects' Rights: Failing to provide a reliable, straightforward means to DIFC Data Subjects to withdraw their consent at any time, together with the information set out in Articles 22 and 32 of the Data Protection Law in contravention of Regulation 9.3.4(f) of the Data Protection Regulations. In addition, exercise of Data Subjects' Rights via the currently available form (the "Contact Form") requires wading through multiple hyperlinks that lead to it. There is no Privacy Notice link anywhere on the Contact Form page. Finally, it does not provide clear options for exercising Data Subjects' Rights (see Screen Shot 6 at Appendix 1).
- (h) Privacy Preferences Selection / Default Preferences Unavailable or Unclear: Denying DIFC Data Subjects the opportunity to select online privacy preferences (the "Cookies Preferences") by way of a notice or banner (the "Cookies Banner") that ordinarily leads to some form of options available on the first use of the Careem Group platform or application, and/or setting Cookies Preferences for such Data Subjects at a setting that is greater than the minimum necessary to deliver or receive any relevant product/s or service/s contained in the Digital Communications and Services, which is a contravention of Regulation 9.2.3 of the Data Protection Regulations (see Screen Shot 7 at Appendix 1).

(individually and collectively, the "Digital Communications and Notice Breaches")²

3. Whilst the Careem Group does not have an operational entity in the DIFC, there are several indicators that demonstrate Processing of Personal Data obtained in the DIFC and/or in respect of individuals based in the DIFC is done "in the context of the activities" of an establishment, i.e., essentially being those activities that are "inextricably linked" with the Processing activities being carried out in the jurisdiction and, consequently, as part of stable arrangements . These include:

² Please refer to the separate Preliminary Notice of Fine issued in this regard.



- (a) the Careem Group having open access to several ride hailing stands in the DIFC (branded as a Careem stand) and discount code for rides originating from or terminating in the DIFC;
 - (b) the Careem Group having a holding company in the DIFC, Careem PS Holding Limited, whose primary contacts and key decision-makers (i.e., director and shareholder) are the same as other licensed entities that comprise the Careem Group in the UAE;
 - (c) Digital Communications and Services of the Careem Group targeting DIFC Data Subjects on a regular basis;
 - (d) services and products of or intermediated by the Careem Group being made widely available in the DIFC, and being used by DIFC Data Subjects on a regular basis; and
 - (e) members of the Careem Group Processing Personal Data of DIFC Data Subjects on a regular basis.
4. As a consequence, the Directions below are directed at the Digital Communications and Notice Breaches against every Careem Group member entity, insofar as it relates to their operations involved in collecting and processing Personal Data obtained in the DIFC and/or in respect of individuals based in the DIFC.

Directions

5. In exercise of his powers under Article 59(1) of the Data Protection Law, the Commissioner hereby directs that the Careem Group shall:
- (a) as soon as reasonably possible, but in any event not exceeding five (5) calendar days from date hereof, refrain from any Digital Communications and Services in the DIFC that are non-compliant with the Data Protection Law and/or the Data Protection Regulations;
 - (b) within sixty (60) calendar days of date hereof, develop and formally adopt or provide evidence of adopted and implemented policies, procedures and/or codes of conduct for the collection and use of Personal Data in Digital Communications and Services provided by Careem Group entities in relation to their operations involved in collecting and Processing Personal Data obtained in the DIFC and/or in respect of individuals based in the DIFC. This action shall include but is not limited to appropriate technical and organisational measures for providing appropriate notices and choice options, as well as safeguarding and minimising Personal Data Processed for such purposes such as transmission, storage and disposal of such Personal Data to be compliant with the Data Protection Law and/or the Data Protection Regulations;
 - (c) within sixty (60) calendar days of the date hereof, develop and formally adopt or provide evidence of an adopted and implemented training programme for all relevant Careem Group employees (or other persons used by the Careem Group in this regard) whose duties involve the collection and use of Personal Data in Digital Communications and Services that are also available in the DIFC in line with the policies, procedures and/or codes of conduct referred to in sub-paragraph 5(b) above;
 - (d) within ninety (90) calendar days of the date hereof, provide evidence that all employees (or other persons used by the Careem Group in this regard) that may become involved in collecting and processing Personal Data obtained in the DIFC have undertaken the training referred to in sub-paragraph 5(b) above, and that any new employees (or other persons used by the Careem Group in this regard) whose job or duties involves handling such Personal Data receive such training at induction and prior to undertaking work without supervision; and



- (e) upon compliance with the Directions in sub-paragraphs 5(a) to (d) above, to provide proof thereof to the Commissioner within seven (7) days thereof, or if sufficient evidence is provided from the outset for each of sub-paragraphs 5(a) to (d), and in any case, maintain auditable records evidencing the same and provide them to the Commissioner at the latter's reasonable request.
- (each one and all collectively, the "Directions")
6. Any relevant Controller or Processor in the Careem Group that fails to comply with the Directions contravenes the Data Protection Law and may be:
- (a) subject to fines; or
- (b) liable for payment of damages and compensation to Data Subjects.
7. Any affected party, whether such party is an entity within the Careem Group or it is any other relevant Controller or Processor, may ask the Commissioner to review these Directions, or any part thereof, within fourteen (14) days of receiving these Directions and the Commissioner may receive further submissions and amend or discontinue the Directions, as he deems fit in the circumstances.
8. Any Controller or Processor affected by the Directions may seek judicial review by a DIFC Court of competent jurisdiction, inclusive of:
- (a) the decision of the Commissioner to issue the Directions; or
- (b) the terms of the Directions.
9. If the Commissioner considers that a relevant Controller or Processor or any responsible officer of either has failed to comply in full with any of these Directions, he may apply to a DIFC Court of competent jurisdiction for one or more of the following orders:
- (a) an order directing a relevant Controller or Processor or responsible officer to comply with the Directions or any provision of the Data Protection Law or the Data Protection Regulations, or of any Applicable Law administered by the Commissioner relevant to the issue/s addressed in the Directions;
- (b) an order directing a relevant Controller or Processor or officer to pay any costs incurred by the Commissioner or other person relating to the issuing of the Directions

by the Commissioner, or the contravention of the Data Protection Law, Data Protection Regulations or Applicable Law relevant to the issuing of the Directions; or

(c) any other order that the Court considers appropriate.

10. Any affected party may make submissions to a DIFC Court in relation to the Commissioner's application for an order under Article 59(5) of the Data Protection Law.

11. The issuing of these Directions is without prejudice to the Commissioner's ability to issue further Directions pursuant to Article 59 of the Data Protection Land and/or to impose fines pursuant to Article 62 of the Data Protection Law.

12. A Controller or Processor who is found by the Commissioner to have contravened the Data Protection Law or a direction issued by the Commissioner may appeal to a DIFC Court with competent jurisdiction against such finding within thirty (30) days.

Reasoning and Evidence

Reasoning: Stable Arrangements / Establishment

13. The Data Protection Law and Data Protection Regulations were structured to align with prevailing global best practices and legislation in relation to data privacy, such as that of the United Kingdom and the European Union’s General Data Protection Regulation 2016/679 (“GDPR”). The Data Protection Law contains requirements dealing with:

- (a) the fair and lawful processing of Personal Data for a specific purpose;
- (b) ensuring that transfers of Personal Data to jurisdictions with new or no data protection regimes are properly safeguarded;
- (c) that Data Subjects can exercise their rights as provided for by the Data Protection Law and the Data Protection Regulations;
- (d) that Data Subjects are given appropriate notice about information including but not limited to how their Personal Data is collected, how it will be processed, who it is shared with; and
- (e) to provide specific notice to Data Subjects whether their Personal Data will be used for direct marketing purposes.

14. In this context of prevailing global best practice, the Data Protection Law and Regulation 9 of the Data Protection Regulations set out detailed obligations applicable to Controllers and Processors relating to electronic communications and behavioural advertising that constitute Digital Communications and Services³.

15. The requirements of Regulation 9 of the Data Protection Regulations are also applicable to Controllers and Processors outside the DIFC in circumstances where, regardless of their place of incorporation, they Process Personal Data in the DIFC as part of stable arrangements, other than on an occasional basis (i.e., the regular Processing of Personal

³ Please refer to Regulation 9.1.1(a) and 9.1.1(b) of the Data Protection Regulations for the detailed definitions of “electronic communications” and “behavioural advertising” that together comprise the definition of Digital Communications and Services.

Data by a Controller or Processor in a particular jurisdiction as part of stable arrangements, which affords them what is ordinarily referred to as “*establishment*” status in that jurisdiction).

16. The concept of Processing “*in the context of activities of the establishment*” through stable arrangements in a particular jurisdiction that consequently invokes certain obligations under applicable data protection legislation has its genesis in EU case law interpreted in line with the then-applicable EU Data Protection Directive (95/46/EC) (the “Directive”) and relevant EU Member State implementing laws, and then further promulgated vis a vis the GDPR (“Establishment”).
17. Establishment has also since been adopted by other likeminded jurisdictions, including the DIFC by way of Article 6(3)(b) of the Data Protection Law and supporting guidance provided by the Commissioner’s Office.

18. The Establishment test was initially set out under Article 4(1)(a) of the Directive, which stated:

“Each Member State shall apply the national provisions it adopts pursuant to this Directive to the processing of personal data where:

(a) the processing is carried out in the context of the activities of an establishment of the controller on the territory of the Member State...”

19. Article 4(1)(a) was further explained under Recital 19 of the Directive, which provides the elements of “effective and real exercise of activity” through “stable arrangements” that would be pivotal for subsequent case law as discussed below.

20. The GDPR took effect on May 25, 2018, replacing the DP Directive and EU Member State laws implementing the DP Directive. The Establishment test is now set out under Article 3(1) and Recital 22 of the GDPR. Article 3(1) reads:

This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union, regardless of whether the processing takes place in the Union or not.

21. A summary of Establishment is found in Recital 22 of the GDPR, which states:

Any processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union should be carried out in accordance with this Regulation, regardless of whether the processing itself takes

*place within the Union. Establishment implies the effective and real exercise of activity through **stable arrangements**. The legal form of such arrangements, whether through a branch or a subsidiary with a legal personality, **is not the determining factor in that respect**. [my emphasis]⁴*

22. With respect to Processing undertaken “as part of stable arrangements”, the [Weltimmo s.r.o. v Nemzeti Adatvédelmi és Információszabadság Hatóság](#) judgment of the CJEU (“Weltimmo”), a 2015 case that was decided under the Directive, explains that the threshold is relatively low:

“It must, in particular, be held...that the presence of only one representative can, in some circumstances, suffice to constitute a stable arrangement if that representative acts with a sufficient degree of stability through the presence of the necessary equipment for provision of the specific services concerned in the Member State in question.”⁵

23. In the case of Weltimmo, the CJEU considered that: (i) the presence of a representative; (ii) the use of a bank account; and (iii) having a letter box in a Member State, constituted the “necessary equipment for provision of the specific services” and this effectively gave rise to an establishment in the jurisdiction⁶.

24. It can also be inferred from the available information provided that the Careem Group is likely to have multiple representatives in the form of drivers operating in the DIFC at any given time, simultaneously carrying out commercial activity and Processing the Personal Data of customers as they provide transportation services via the Careem App for journeys originating from or terminating in the DIFC.

25. On this basis, according to the precedent set down by the CJEU in Weltimmo, the Careem Group meets the “stable arrangements” element from which Article 6(3)(b) is derived.

⁴ Please see the Commissioner’s guidance about the applicability of the Data Protection Law as well as secondary guidance found in Recital 19 of the Directive, Recital 22 of the (UK) GDPR and the European Data Protection Board (EDPB) Guidelines 3/2018 on the territorial scope of the GDPR (Article 3), on which Article 6 of the DIFC Data Protection Law is based.

⁵ Weltimmo para 30

⁶ Weltimmo, para 33

26. Establishing the presence of representatives in the relevant jurisdiction is not in and of itself enough to determine Establishment in the relevant jurisdiction. European Data Protection Board (“EDPB”) guidelines (the “Guidelines”) state that:

*“The mere presence of an employee in the EU is not as such sufficient to trigger the application of the GDPR, since for the processing in question to fall within the scope of the GDPR, it must also be **carried out in the context of the activities of the EU-based employee.**”⁷*

27. The determination of whether Processing is carried out “in the context of the activities” is made on a case-by-case basis taking into account the specific facts and in light of the relevant case law, specifically vis a vis:

- (a) [Google Spain v AEPD \(The DPA\) & Mario Costeja Gonzalez](#) (“Google Spain”), a 2014 case wherein the CJEU, which found that the Processing of the Personal Data in question by the search engine operated by Google Inc., a US-based Controller, was “**inextricably linked**” to, and therefore was carried out “**in the context of the activities**” of Google's establishment in Spain, considering that the advertising and commercial activities of the Spanish subsidiary constituted the “*means of rendering the search engine economically profitable and that engine is, at the same time, the means enabling those activities to be performed*”⁸. On these grounds, the CJEU concluded that Spanish law applied to the Processing in question; and
- (b) [Google LLC, v Commission Nationale De L’informatique Et Des Libertés \(CNIL\)](#) (“Google France”) a 2019 case that reaffirmed Google Spain, wherein the CJEU again found that Google LLC fell within the territorial scope of the Directive because “*it is apparent from the information provided in the order for reference, first, that Google’s establishment in French territory carries on, inter alia, commercial and advertising activities, which are **inextricably linked** to the processing of personal data carried out for the purposes of operating the search engine concerned, and,*

⁷ EDPB Territorial Scope Guidelines 3/2018, page 6

⁸ Google Spain, para 56

second...the existence of gateways between its [Google's] various national versions, be regarded as carrying out a single act of personal data processing.”⁹

28. Further elements regarding establishment stem from the Guidelines, extracts of which are provided below as follows:

*If a controller or processor **established outside the Union exercises “a real and effective activity - even a minimal one” - through “stable arrangements”, regardless of its legal form (e.g. subsidiary, branch, office...), ... this controller or processor can be considered to have an establishment in that [jurisdiction]***

*The threshold for “stable arrangements” **can actually be quite low** when the centre of activities of a controller concerns the provision of services online. As a result, in some circumstances, **the presence of one single employee or agent of a non-EU entity in the Union¹⁰ may be sufficient to constitute a stable arrangement.***

*The fact that the non-EU entity responsible for the data processing does not have a branch or subsidiary in a Member State **does not preclude it from having an establishment there...***

***it is not necessary that the processing in question is carried out ‘by’ the relevant... establishment itself;** the controller or processor will be subject to obligations under the [law] whenever the processing is carried out “in the context of the activities” of its relevant establishment.*

...determining whether processing is being carried out in the context of an establishment of the controller or processor ... should be carried out on a case-by-case

⁹ Google France, para 52

¹⁰ Please read references to the EU / EU entities in the context of DIFC / DIFC Entities (and non-DIFC / non-DIFC Entities)

*basis **and based on an analysis in concreto**. Each scenario must be assessed on its own merits, taking into account the specific facts of the case.*

*Revenue-raising in the EU by a local establishment, to the extent that such activities can be considered as **“inextricably linked”** to the processing of personal data taking place outside the EU and individuals in the EU, may be indicative of processing by a non-EU controller or processor being carried out **“in the context of the activities of the EU establishment”**, and may be sufficient to result in the application of EU law to such processing¹¹*

*A processing activity can only be **considered as “occasional”** if it is not carried out **regularly, and occurs outside the regular course of business** or activity of the controller or processor.*

[All parts in bold script are my emphasis.]

Evidence: Contraventions in the context of Stable Arrangements / Establishment

29. As such, the following evidence constitutes conditions of or actions by the Careem Group as part of stable arrangements in the context of activities originating from or taken in the DIFC that are of a regular, ongoing nature:

- (a) the Careem Group having access to a ride hailing stand (branded as a Careem stand) and discount code for rides originating from or terminating in the DIFC;
- (b) the Careem Group having a holding company in the DIFC, Careem PS Holding Limited, a holding company whose key stakeholders have multiple roles across the Careem Group and who are the same as other licensed entities that comprise the Careem Group in the UAE;
- (c) Digital Communications and Services of the Careem Group targeting DIFC Data Subjects on a regular basis;

¹¹ [EDPB WP179 update](#), January 2020



- (d) services and products being made widely available in the DIFC, and being used by DIFC Data Subjects on a regular basis;
 - (e) multiple representatives in the form of drivers operating in the DIFC at any given time, simultaneously carrying out commercial activity and Processing the Personal Data of customers as they provide taxi services for journeys originating from or terminating in the DIFC; and
 - (f) members of the Careem Group Processing Personal Data of DIFC Data Subjects on a regular basis.
30. In light of the above, the relevant provisions of the Data Protection Law and the Data Protection Regulations apply to each of the members of the Careem Group who operate on a regular basis in the DIFC and where such operations include collecting and Processing of Personal Data obtained in the DIFC and/or in respect of individuals based in the DIFC.
31. As such, the specific Contraventions are detailed below in the context of a) “Information Provision and Lawful Basis Contraventions”, and b) “Consent and Preferences Contraventions”.

Information Provision and Lawful Basis Contraventions

32. Information Provision / Lawful Basis (general): Regarding the requirement set out in Article 29(1)(c) to provide individuals with information about the lawful basis for Processing Personal Data, legitimate interests may be applied as a lawful basis for Processing generally. It may also be applied in the context of Digital Communications and Services, but in limited circumstances, having passed specific purpose, necessity and balancing tests.
33. In its Privacy Notice for Ride Hailing¹² (the “Privacy Notice”), Careem Group provided the first mention of any sort of lawful basis for Processing as legitimate interests in the specific context of “Automated Decision Taking”, roughly two-thirds of the way through the Privacy Notice.

¹² Careem Privacy Notice for Ride Hailing - <https://www.careem.com/en-AE/privacy-notice-ride>

34. The legitimate interests basis was also alluded to further down in the Privacy Notice in the context of erasing, restricting or objecting to Processing an individual's Personal Data, for example, "...where you have objected to processing of your Personal Data on the legal grounds relating to your particular situation, and Careem cannot prove that there are overriding legitimate interests for processing." This is technical language that is used here nearly verbatim form from Article 21 of the GDPR.
35. There is no other reference to a lawful basis for processing in general, and consequently the Privacy Notice does not fully comply with Article 29 of the Data Protection Law.
36. Lawful basis for Marketing in the DIFC: Careem Group failed in any case to provide clear information in plain language of its lawful basis for Processing Personal Data via legitimate interests for Digital Communications and Services purposes, and regardless, in most circumstances, legitimate interests would not have been the most appropriate basis for Processing Personal Data in the context of Regulation 9 activities.
37. The Commissioner issued Decision Notice 1 of 2022 in September 2022¹³ ("Decision 1"), regarding Processing of Personal Data in contravention of the lawful basis and information provision requirements of the Data Protection Law.
38. The Respondent in Decision 1 had a direct, operational entity in the DIFC, but there are similarities worth noting in this context.
39. In Decision 1, the Commissioner relied on guidance from the United Kingdom Information Commissioner's Office (the "ICO Guidance") as persuasive authority regarding the necessity and proportionality of legitimate interests as a basis for Digital Communications and Services. Paragraph 4.9 of Decision 1 referred to the following information in the ICO Guidance:

...this does not automatically mean that all processing for marketing purposes is lawful on this basis. You still need to show that your processing passes the necessity and balancing tests. You may also need to be more specific about your purposes for some elements of your

¹³ [Decision Notice 1 of 2022](#)

processing in order to show that processing is necessary and to weigh the benefits in the balancing test. [...] When looking at the balancing test, you should also consider factors such as:

- *whether people would expect you to use their details in this way;*
- *the potential nuisance factor of unwanted marketing messages; and*
- *the effect your chosen method and frequency of communication might have on more vulnerable individuals.*

Given that individuals have the absolute right to object to direct marketing [under Article 21(2) of the UK GDPR], it is more difficult to pass the balancing test if you do not give individuals a clear option to opt out of direct marketing when you initially collect their details (or in your first communication, if the data was not collected directly from the individual). The lack of any proactive opportunity to opt out in advance would arguably contribute to a loss of control over their data and act as an unnecessary barrier to exercising their data protection rights.

40. Legitimate interests as a lawful basis or another lawful basis for that matter for engaging in Digital Communications and Services in the DIFC is not clearly specified in the Privacy Notice as required by Regulation 9.2.1.

41. For example, in Point 8(2) of the Privacy Notice, rather than stating the lawful basis that Careem Group will apply when Processing Personal Data, it states what it *cannot* do when using Personal Data for Digital Communications and Services, noting:

“In some countries, we cannot provide you with any direct marketing communications unless we have obtained your express consent to do so in advance.”

42. Moreover, based on the reasoning in paragraphs 37 to 39 above, legitimate interests would not have been the most appropriate basis for Careem Group to Process Personal Data for this purpose at a minimum based on a necessity and proportionality test and no other lawful basis is clearly identified.

43. Two Contact Methods for Exercising Rights: In its Privacy Notice, Careem Group provides a link to a page containing several apparent ways to “make contact”, including vis a vis the Subject Access Request form that contains several left menu options. However, all of them lead to more information and links, and none of these resources provide a phone number. They instead lead in each case to a page called “Contact Us”, which is a webform for submitting a question or request that presumably goes to a Careem contact centre.
44. There is also a link to the Help Centre on its website footer. However, the Help Centre link takes the user to another page containing choices, none of which lead on a further click to the ability to call or make direct contact with Careem Group, and eventually leads to the same webform called “Contact Us”.
45. More specifically, in order to make a Subject Access Request in accordance with Part 6 of the Data Protection Law, the hyperlink in Section 16 of the current Privacy Notice refers the reader to a “Contact Us Form” but that redirects to the “How do I submit a Subject Access Request (SAR GDPR)?” noted above¹⁴.
46. In the Careem App, available contact selections are not consistent with the explanation on the Careem Website’s “Contacting Careem” page, nor do they appear to be consistent between user type, user device type, ride type, history or apparently even technology version.
47. In some cases, Careem App users can access phone numbers for Road and Transport Authority only if they have used Hala taxi services.
48. Otherwise, finding the correct information for making contact either a) redirects to the same SAR page with left menu as per Screen Shot 2B, or b) to messaging options rather than any other method, including a phone number to reach a relevant entity within the Careem Group directly.

¹⁴ Link in Section 16 (Contact Us) of Careem Group Privacy Notice <https://help.careem.com/hc/en-us/articles/360047765553-How-do-I-submit-a-Subject-Access-Request-SAR-GDPR>

49. Screen shots taken from two (2) different devices using the Careem APP taken at the same time are available in Appendix 1 (please see Screen Shots 2B(i) and 2B(ii)). These screen shots show that different versions of options are provided to different users.
50. The available contact methods and related information are unclear and confusing, there are a variety of forms and redirections, and when a final webform is reached, it does not specifically provide a method of contacting Careem Group for the purposes stated.
51. Lastly, there is no simple form or information available including the Privacy Notice that provides a minimum of two (2) different methods of contacting Careem Group itself, as is required by Article 40.
52. For further information, please see Appendix 1, Screen Shots 2A to E.

Consent and Preferences Contraventions

53. Lack of Opt In / Out on First Collection: When using the Careem App or Careem Website, a sample audit determined that DIFC Data Subjects do not have the opportunity to refuse or opt out of receiving Digital Communications and Services the first time a Careem Group Controller collected their Personal Data for specific purposes in accordance with Regulation 9.2.2.
54. The Privacy Notice is available at all times on the footer of the Careem Website and through a series of clicks in the Careem App, but there is no apparent clear way to opt out of receiving Digital Communications and Services such as a tick box or other concise, transparent, intelligible and easily accessible form at the time of collection of Personal Data.
55. For further information, please see Appendix 1, Screen Shot 3.
56. Bundled or Implied Consent: Throughout the currently available Privacy Notice, DIFC Data Subjects are not provided the opportunity to undertake a clear affirmative act that shows an unambiguous indication of freely given consent by a Data Subject to use the Personal Data for specific, distinguishable purposes or for one or more matters not expressly concerned with the Processing of Personal Data.

57. Rather, the Privacy Notice provides for bundled or implied consent in several places, including with respect to Marketing or other privacy preferences such as whether cookies are collected, as well as in reference to the continued use of Careem Services constituting consent to both changes in the Privacy Notice or Processing Personal Data processing of personal data outside the country where you access the Services from Careem Rides.¹⁵

58. For further information, please see Appendix 1, Screen Shot 4.

59. Unsubscribe Unavailable / Convolutd Opt-Out aka “Dark Patterns”: Data Subjects do not always have the opportunity to unsubscribe in marketing or communications email.

60. In Point 8(2) of the Privacy Notice cited in paragraph 41 above goes on to state:

In all cases, Careem Rides provides End Users and Captains the opportunity to opt-out of receiving direct marketing communications from us and our partners:

- *in any direct email marketing communication that you receive from us;*
- and*
- *for End Users, from the ‘Settings’ menu in the Careem application.*

61. A sample audit of end user emails indicated that more than one email communication to various Digital Communications and Services recipients did not contain an unsubscribe link.

62. A sample audit of end users’ Settings options on the Careem App showed that opt-out options are unclear or convoluted, indicating that Careem Group engages in the use of online practices otherwise known as “dark patterns” rather than providing easily accessible ways for DIFC Data Subjects to exercise choices about its Digital Communications and Services.

63. In addition, the language directing Data Subjects to the opt-out settings is inconsistent and the process is multi-layered with language that either discourages Data Subjects from making such changes or directs them towards certain choices.¹⁶

64. For further information, please see Appendix 1, Screen Shots 5 (a) through (i).

¹⁵ Please refer to Sections 6 and 15 of the Privacy Notice.

¹⁶ European Commission [Press Release](#) regarding manipulative online practices

65. Consent Withdrawal / Lack of straightforward, accessible means of contact for exercising Data Subjects' Rights via multi-layered redirects to ambiguous contact form: Failure to provide a reliable, straightforward means to DIFC Data Subjects to withdraw their consent at any time, together with the information required under Articles 22 and 32 of the Data Protection Law .
66. The contact method that is provided leads to a Subject Access Request form¹⁷ that requires a further click to get to the actual submission form¹⁸. Upon locating the contact submission form, the relevant Privacy Notice link is no longer available and the “What can we help you with?” drop down list does not provide any option for Withdrawal of Consent (or indeed any other clear way to exercise Data Subjects' Rights, as per the title of the form on the previous link).
67. For further information, please see Appendix 1, Screen Shot 6.
68. Privacy Preferences Selection / Default Preferences Unavailable or Unclear: In accordance with Article 14(4) and Regulation 9.2.3, where a Controller such as Careem Group is offering online services through a platform (i.e., the Careem App or the Careem Website), the privacy settings (i.e., cookies or other tracking methods) must be set such that no more than the minimum Personal Data necessary to deliver or receive the relevant services is obtained or collected.
69. In addition, DIFC Data Subjects must be afforded the opportunity to select privacy preferences on first use of the Careem Website or Careem App.
70. The Cookies Banner does not include the following, in accordance with Regulation 9.2.3:
- (a) a clear, colour-neutral selection box or button that neither promotes nor discourages any particular setting selections;

¹⁷ [Link](#) available in Section 16 (Contact Us) of Careem Group Privacy Notice

¹⁸ Contact Form <https://help.careem.com/hc/en-us/requests/new>



- (b) plain language text explaining the preference settings, so that the Data Subject may change them, and how to change them; and
- (c) an easily accessible means, such as a preferences link or dashboard, to further alter privacy preferences upon additional use of the platform or application.

71. Data Subjects are not provided the opportunity to select or change their preferences through the Cookies Banner provided. A sample audit indicated that it is not possible to change or even access cookies or similar privacy settings via the Careem Website or Careem Application.

72. As such, it is unclear whether default privacy preferences for Data Subjects using the Careem Group platform online are set at a level greater than necessary, although the Cookies Banner indicates that cookies settings will “provide the best experience” to the end user.

73. For further information, please see Appendix 1, Screen Shot 7.

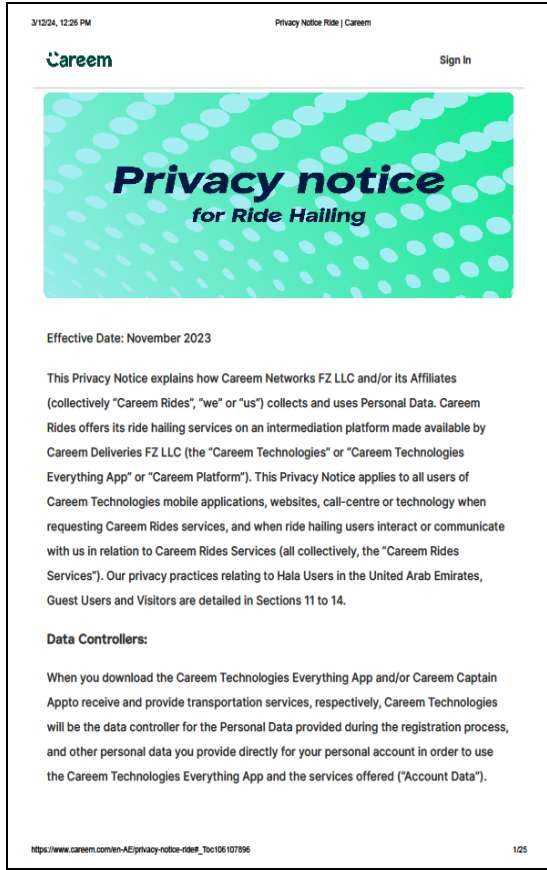
Signed by the Commissioner of Data Protection

Date _____

Appendix 1

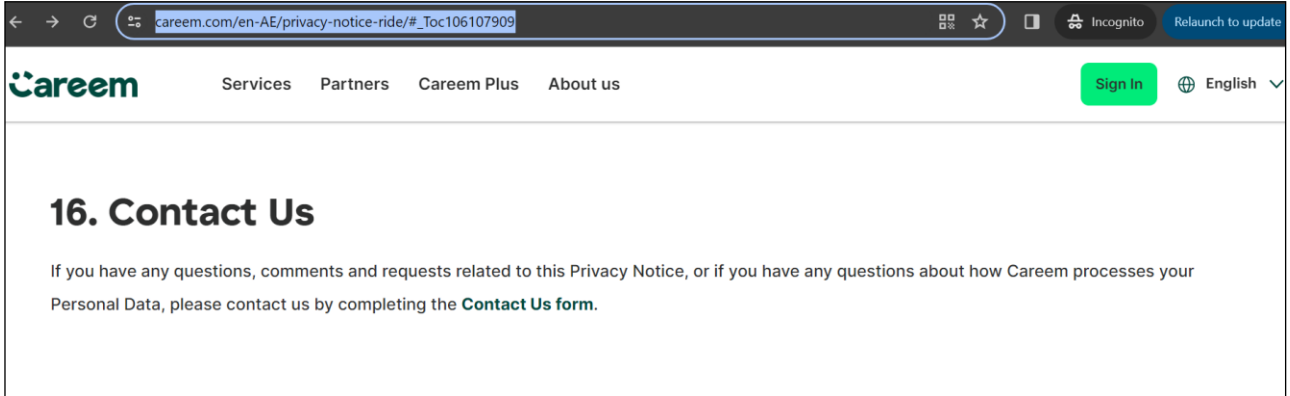
Screen Shot 1 and Link - Information Provision / Privacy Notice

(Click on this [link](#) to open full notice)



Screen Shots 2A through E – Two Contact Methods for Exercising Rights

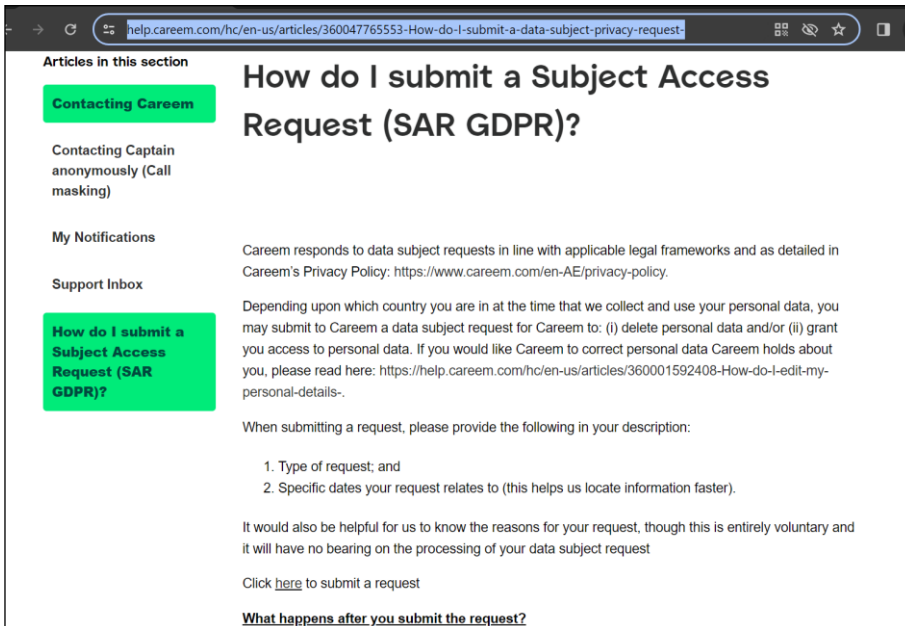
2A



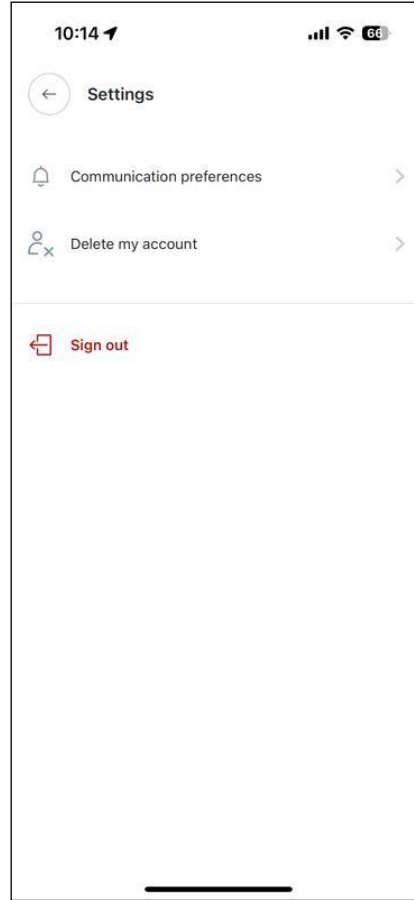
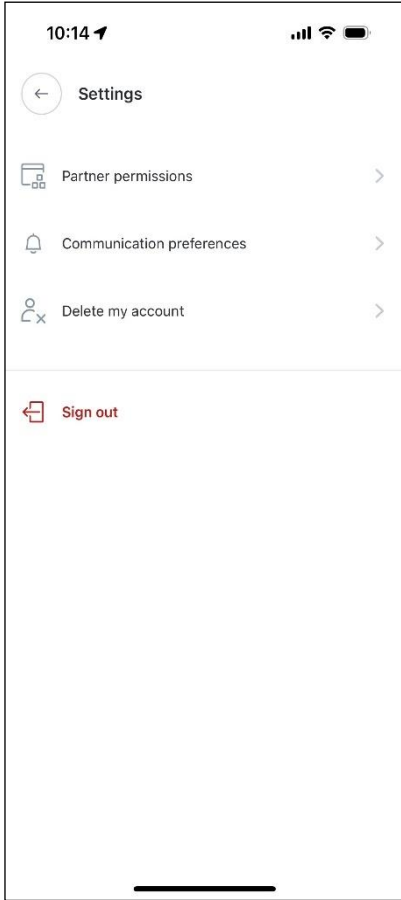
The above screen shot is from the "Rides" Privacy Notice, which leads to the SAR form (2B below).

2B

Careem Website version



2B(i) and 2B(ii)
Careem App version

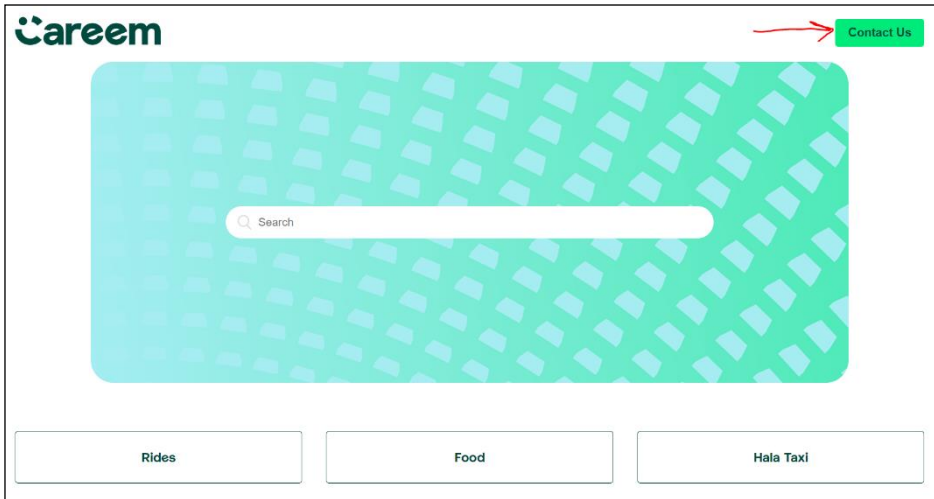


2C

Services	Partners	Join our team	About us	U.A.E. ▾
Go	Corporate packages	About us	Our social impact	🌐 English ▾
Eat	Restaurant delivery	Engineering at Careem	Information security	🔍 Help Centre
Get	B2B delivery	Careers	Blog	🔍 Book your ride
Pay	Pay merchant solutions	Explore open roles		
Careem Plus	Become a supplier	Why Careem		

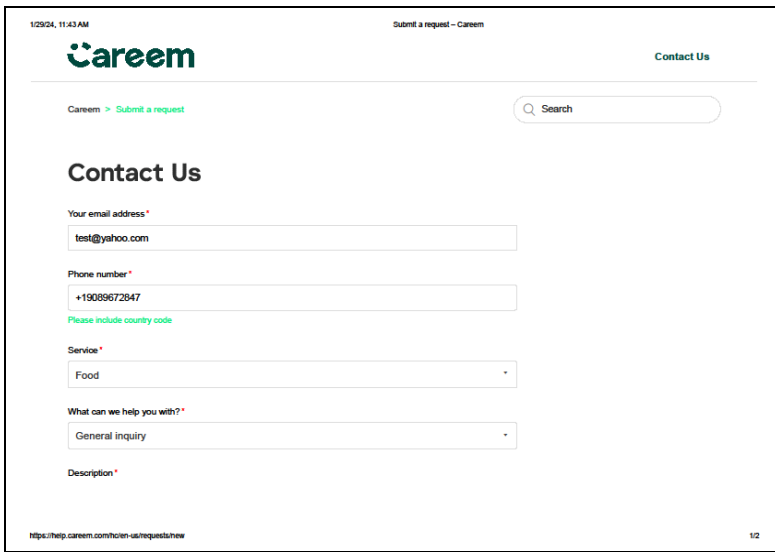
Next step is several FAQ type blocks on a page with a “Contact Us” button at the top (2D)

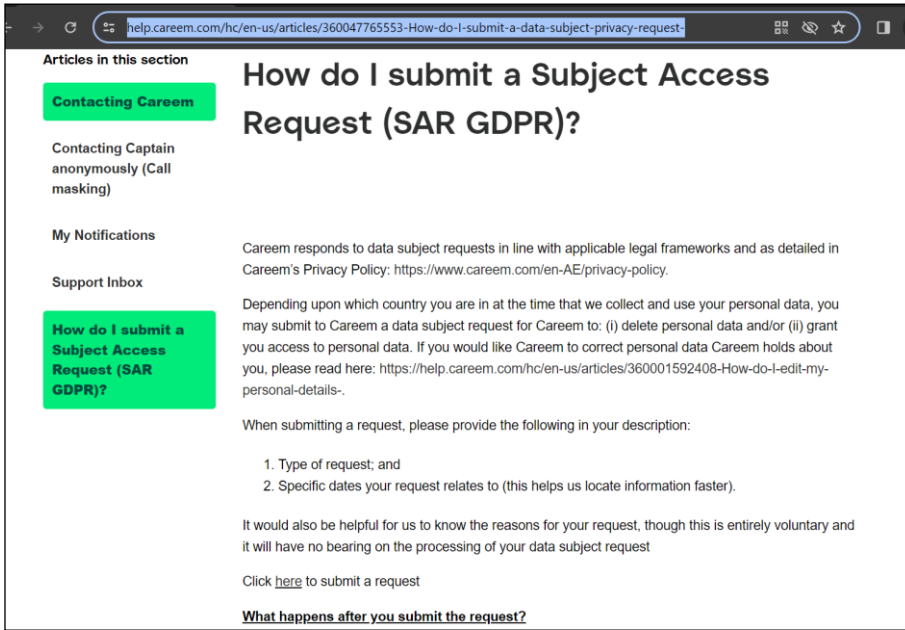
2D



The "Contact Us" button redirects back to the general "Contact Us" form (2E), which is the same form that the SAR page (2B) leads to. Generally, there is a loop of redirections and difficulty in finding the appropriate method of contact.

2E





The Contact Us form (2E) shows that the only method of contact is to submit the SAR form (2B), rather than providing two (2) methods of contact.



Screen Shot 3- Lack of Opt In / Out on First Collection

1/29/24, 11:43 AM Submit a request - Careem

Careem Contact Us

Careem > [Submit a request](#)

Contact Us

Your email address*

Phone number*
Please include country code

Service*

What can we help you with?*

Description*

<https://help.careem.com/hc/en-us/requests/new> 1/2



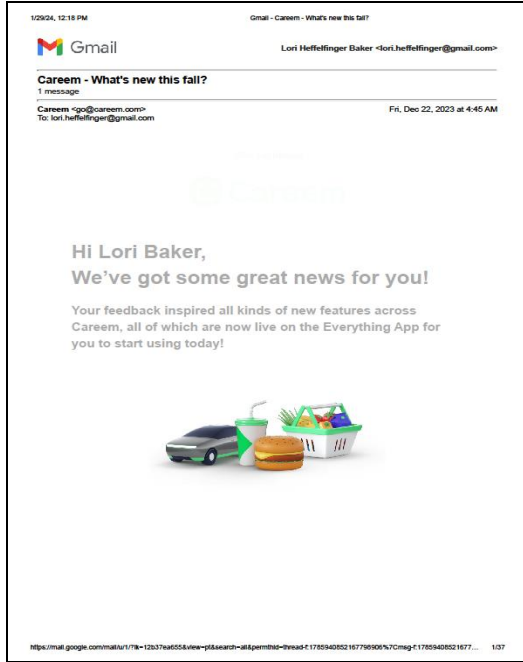
Screen Shot 4 – Bundled or Implied Consent for Marketing or Other Purposes

The screenshot shows a web browser window with the URL `careem.com/en-AE/privacy-notice-ride/#_Toc106107909`. The page header includes the Careem logo, navigation links for Services, Partners, Careem Plus, and About us, a Sign In button, and a language selector set to English. The main content area contains a paragraph of text regarding data processing. Below this, a section titled "Marketing" is circled in red. The text in this section states: "You consent that both Careem Rides and Hala may use the Personal Data you provide to Hala for the purposes of either Careem Rides or Hala directly contacting you to market their separate services to you."

Screen Shots 5(a), 5(b) and 5(c through g) – Unsubscribe Unavailable / Convoluted Opt-Out aka “Dark Patterns”

5(a)

Email page 1



Email page 2

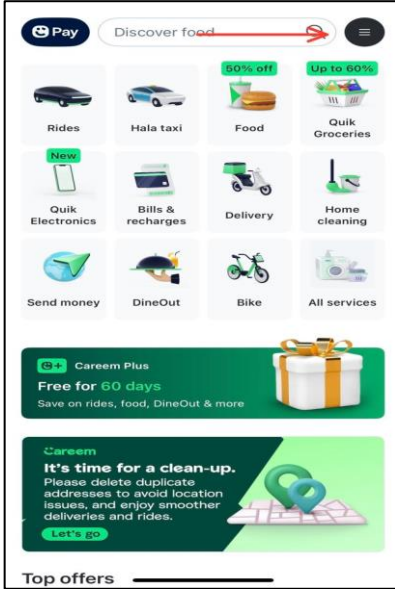


5(b) Privacy Notice information regarding Opt-Out

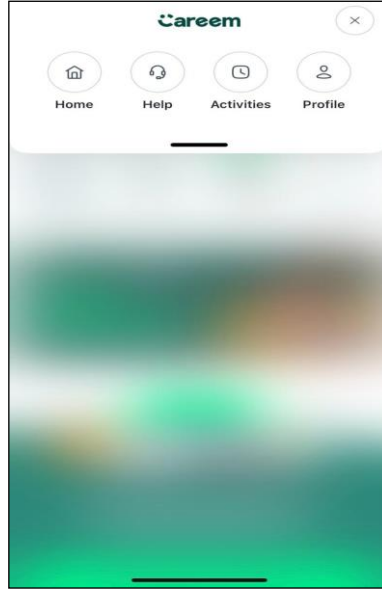
The screenshot shows the mobile website for careem.com. At the top, there is a navigation bar with the Careem logo on the left, a green button labeled "Download the app" in the center, and a hamburger menu icon on the right. Below the navigation bar, the page content is titled "2. Marketing and Opting Out". The text explains that in some countries, direct marketing communications are only provided with express consent. It states that Careem Rides provides End Users and Captains the opportunity to opt-out of receiving direct marketing communications from the company and its partners. A red oval highlights a bulleted list of opt-out methods: "in any direct email marketing communication that you receive from us;" and "for End Users, from the 'Settings' menu in the Careem application."

5(c) through (i) “Dark Patterns”

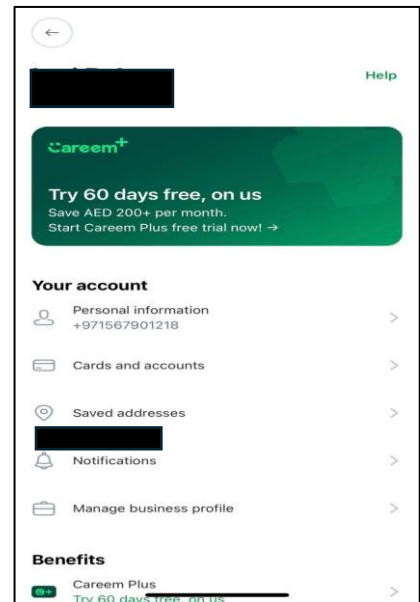
Landing Page



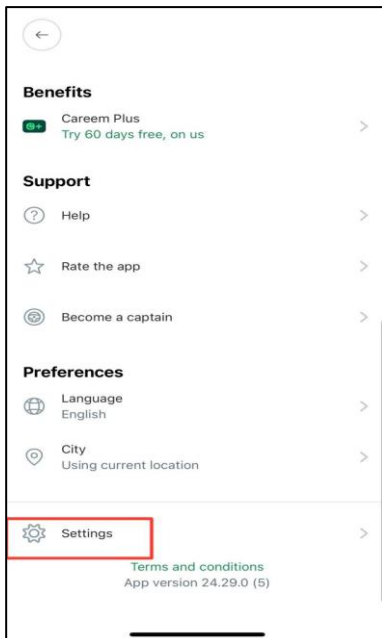
Click 1



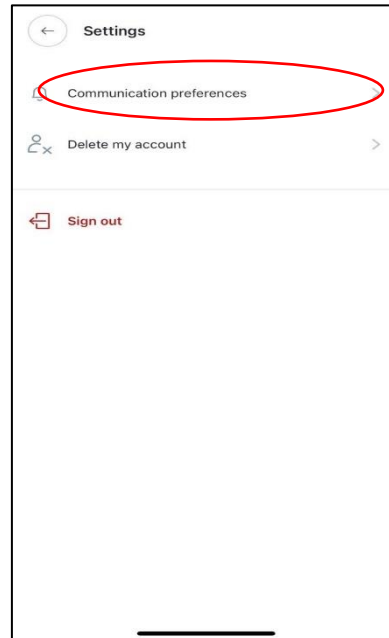
Click 2, part 1



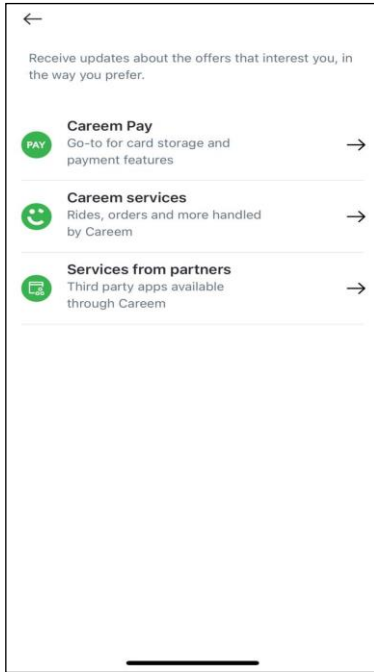
Click 2, part 2 (Settings located at bottom of page after adverts and offers)



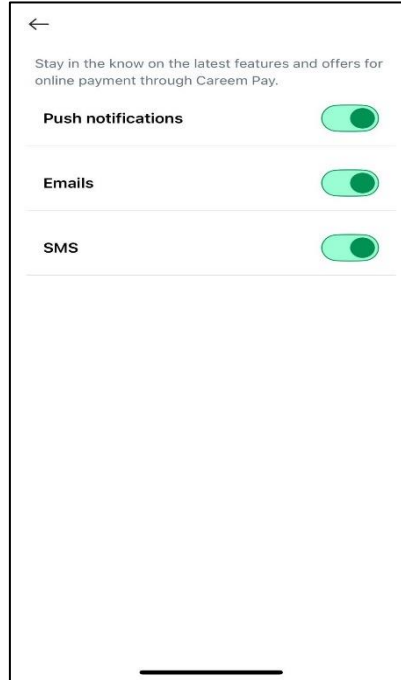
Click 3



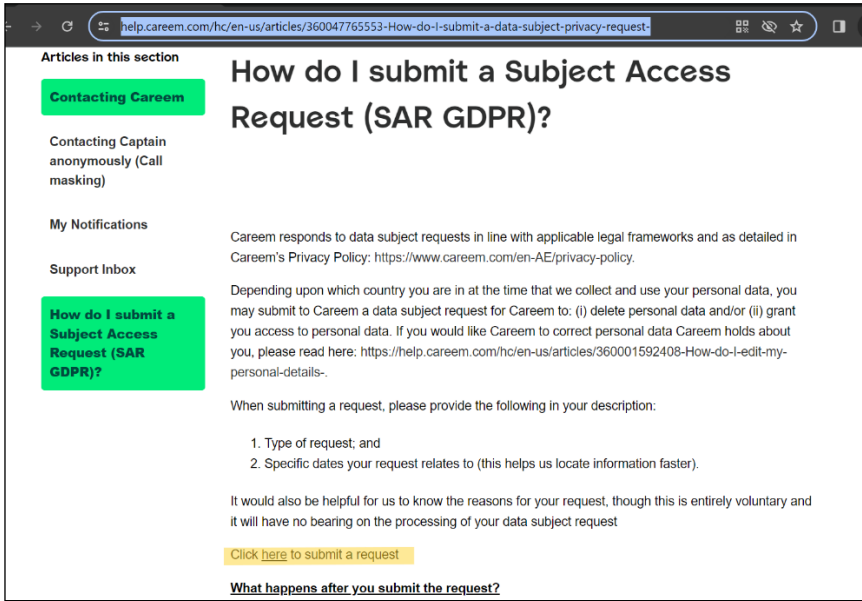
Click 4 (no mention of opt out but rather persuasive language regarding offers)



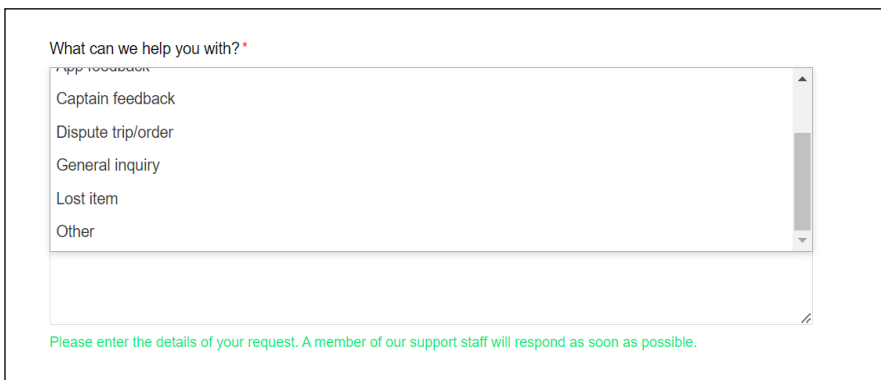
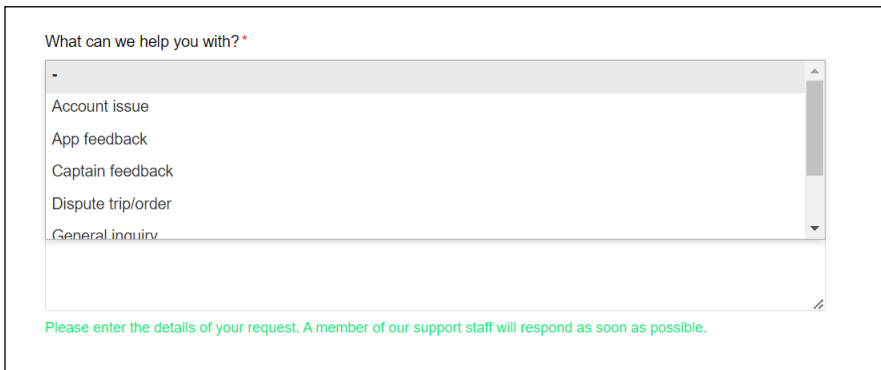
Click 5 (again, no mention of opt out and communications preferences have been pre-selected to receive offers)



Screen Shot 6 – Consent Withdrawal / Lack of straightforward, accessible means of contact for exercising Data Subjects’ Rights via multi-layered redirects to ambiguous Contact Form



Clicking on the highlighted link redirects to Contact Form (see Screen Shots 2 above), which does not actually contain a selection for Subject Access Requests



Screen Shot 7 - Privacy Preferences Selection / Default Preferences Unavailable or Unclear

