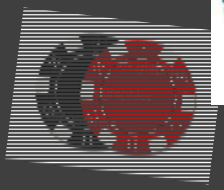
Meet the Cast of Characters…

Little Red Riding Client

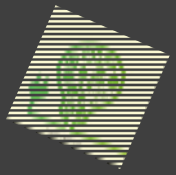
- A US-Based Corporation
- Or a multinational
- Doing business with individuals who reside in the EU

Various sizes and industries










Grandma

- The Data Protection Directive (95/46/EC)
- Existing EU data protection law which applies mostly within the borders of the European Economic Area

The Big Bad GDPR

- EU General Data Protection Legislation (GDPR)
- Overhauls EU data protection legislation
- One law directly applies to all 28 states
- Effective date: May 25, 2018

That was then…

- Little Red Riding Client has been doing business with EU clients and end users, without any regard to EU data protection laws.
- EU Data protection laws did not apply to it

This is now….

- GDPR is a game changer
- It applies to US companies even if they do not have a physical presence in the EU
- It raises the stakes
- It cannot be ignored

Extensive extraterritorial jurisdiction

GDPR applies to US companies if they

- set out to provide services to individuals residing in the EU

and those services

- involve processing identifiable personal information

OR

- Track / monitor EU individuals (cookies)

Big Fines

- Fines are the larger of:
  - 20 Million EUR OR **4% of worldwide revenue**
  - 10 Million EUR OR **2% of worldwide revenue**
- Calculated based on group of companies

Meet the Protagonist…

Legal and Compliance GDPR Team

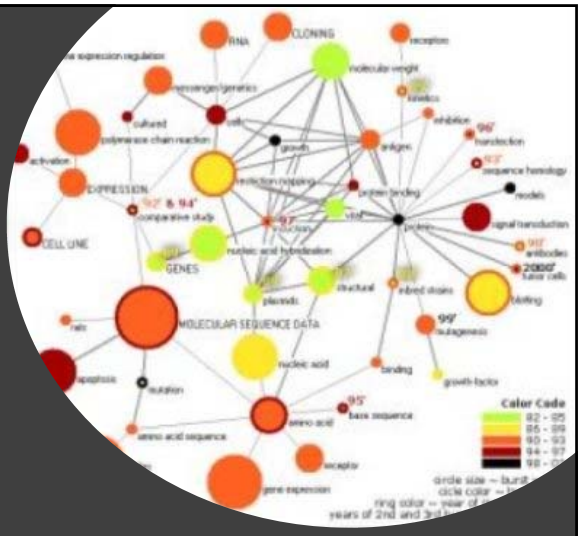
- Provide pragmatic, risk mitigation strategies for GDPR compliance.
- Complete compliance programs or specific issues / projects.

Daunting Task List for Compliance

- US Companies are considerably behind their EU counterparts.
- Do not have policies, procedures and necessary for GDPR compliance.
- Large changes may be required in operations, products, and paperwork.

Where in the world is my data?

- What data do I collect?
- Why do I collect it? Do I need it?
- Do I have permission?
- What do I use it for?
- Who do it share it with?
- What do they do with it?
- How long do I keep it for?



What is my legal basis?

- It's just consent, right?
- Contract
- Compliance with a legal obligation
- Protection of vital interests
- Performance of a task in the public interest
- Legitimate interest

What should my privacy notice say?

- It is NOT the website privacy notice law
- It's a NOTICE not a policy
- It DOES cover cookies
- But also offline collection
- Other laws cover cookies too
- Do I collect personal data?
- Where do I get it?
- What is my legal basis?
- What do I use it for?

What <u>else</u> should my privacy notice say?

- Who do it share it with?
- What do they do with it?
- How long do I keep it for?
- Am I sending it overseas?
- What are people's rights regarding the data?
- Where can people complain if I messed up?

Can I take "yes" for an answer?

- Consent under GDPR is complicated
- Not implied, no pre-ticked boxes.
    - Freely given
    - Specific
    - Informed
    - Unambiguous

Service Providers

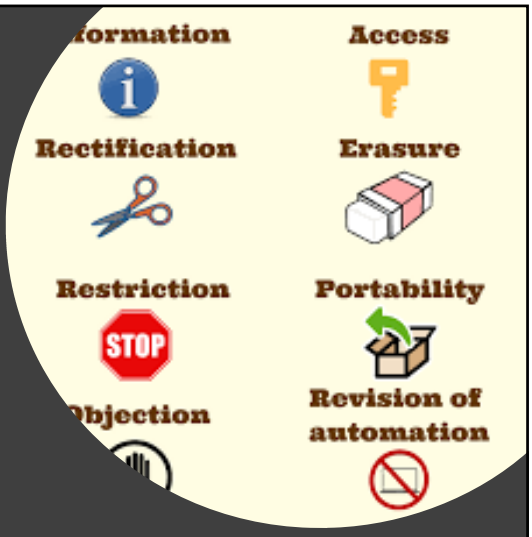
- Who handles personal data for me?
- Can they be trusted? What about their personnel?
- What does my agreement with them say?
  - What can they do with my data?
  - Can they outsource?
  - Can they transfer data overseas?
  - Can they help me with people's requests?
  - What if they get hacked?

Last call for data transfer

- Is the data leaving the EU?
- Is it going to the US?
- Do I have something to make this transfer "kosher"?
  - Model clauses?
  - Binding corporate rules
  - EU US Privacy Shield certification

What do I do about people's requests?

- Do I need to give them access to their data?
- Do I need to let them correct the data?
- Can then tell me to stop certain uses of their data?
- Do I need to delete their data?
- Do I need to give them a copy of their data?
- What can they do if I messed up?



What if I got hacked?

- Notify the data protection authority within 72 hrs unless there is no risk to the rights of individuals
- Notify individuals without undue delay if there is a high risk to the rights

DPIA: What if I <u>think</u> my data processing is risky?

- What is the processing?
- Is it necessary?
- Is it proportional to the need?
- What risks does it pose to people?
- What can be done to mitigate the risks?

DPO: What if I <u>know</u> my data processing is risky?

- regular and systematic monitoring of data subjects on a large scale OR
- processing on a large scale of special categories of data

Do I engage in profiling?

- Do I use automated processing of personal data to evaluate personal aspects like work performance, economic situation, health?
- Am I making decisions decision based solely on automated processing, including profiling, which produce legal effects concerning the individual or similarly significantly affects the individual?

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