

# GDPR

## A Merchant's Perspective

December 13, 2018

Organized by mpe



## MODERATOR & PRESENTER:

### **Nadja van der Veer, Co-Founder / Payments Lawyer, PaymentCounsel**

Nadja van der Veer is a payments lawyer with over 10 years of experience in the international Payments industry and a legal expert in rules and regulations involving PSD, GDPR, AML and CDD and Card Schemes. Having worked for a PSP and an acquirer, she has a broad perspective on all legal and business aspects of (Card and Alternative) Payment processing in the global e-Commerce industry. As Co-Founder of PaymentCounsel ([www.paymentcounsel.com](http://www.paymentcounsel.com)) and one of the Managing Partners of Pytch Ventures ([www.pytchventures.com](http://www.pytchventures.com)) she consults Merchant Acquirers, Payment Services Providers (PSPs/MSPs), other FinTech companies and Merchants in their start-up phases that want to expand their business internationally, while mitigating risk. Together with her partners, they understand all aspects of this sector intimately and aim to share their expertise with their partners with full transparency and simplicity. Nadja is an Executive Board Member of the European Women Payments Network ([www.ewpn.eu](http://www.ewpn.eu)), which aims to provide a support system to women in the industry through different initiatives like networking events and programmes.



## **PRESENTER & PANELIST:**

### **Tudor Nistor, Payments, FinTech Lawyer, Tudor Nistor Payments Law Office**

Tudor is admitted to the Bucharest bar and specialises in banking and finance law, with a particular focus on FinTech, payment services and e-money. He has significant expertise in the area of electronic payments, advising on a variety of legal issues related to e-money and payment services. Prior to starting its own law boutique firm, Tudor worked in a major Austrian law firm in the banking and finance department. During the past years, Tudor advised several payment institutions, e-money issuers, credit institutions, large international social media platforms, as well as various stakeholders in the payments value chain. .



## **PRESENTER & PANELIST:**

### **Tatiana Rozoum, Co-founder, FINTECTURE**

Tatiana is a FinTech entrepreneur, specialised in E-Money, Payment Services, Anti Money Laundering and Open banking. Prior to that, she worked as Director at the FCA regulated micro-payment FinTech for millennials. The firm was authorised in 28 EEA countries. Before joining the E-money institution she worked in the payment consulting firm where she advised multinational corporations, Telecom sector and E-commerce. Prior to that she was a legal counsel in the AML department at the French Financial Services Regulator.





## **PRESENTER & PANELIST:**

### **Mark Beresford, Director, Edgar, Dunn & Company**

Mark Beresford is a Director in the London office and heads up the Retailer Payments Practice for Edgar, Dunn & Company. He has over 20 years of experience of consulting strategy, developing and managing financial services businesses. In the Retailer Payments Practice Mark works with a number of global merchants to develop omnichannel payment acceptance strategies. He uses the 360° Payment Diagnostic methodology developed by Edgar, Dunn & Company to identify cost efficiencies for retailers by defining an appropriate mix of payment methods, acceptance channels, alternative forms of payments, and optimizing Payment Service Provider and acquiring relationships.

# GDPR: A Merchant's Perspective

Nadja van der Veer, Co-Founder/Payments Lawyer, PaymentCounsel

A piggy bank wearing glasses is positioned in the foreground, centered horizontally. The background is a dark green surface covered with white hand-drawn business sketches. These sketches include a bar chart, a pie chart with segments labeled 30%, 10%, and 60%, a lightbulb, a target, a money bag, a document, and various arrows and text labels like 'business plan', 'idea', 'solution', 'growth', 'vision', and 'money'. The word 'Background' is written in large, bold, white letters across the middle of the image, partially overlapping the piggy bank and the sketches.

**Background**



















# Poor cybersecurity practices

- 21% of all files are not protected in any way
- By 2020 300 billion passwords
- 70% believe increased security risk
- 69% believe software cannot block threats
- 65% >500 users never prompted to change passwords
- Ransomware attacks up 350% & IoT attacks 600% (2017)

# Agenda

- Step 1: the crucial role assessment
- Relation other players & impact
- Data security and management
- Where open banking meets GDPR
- Different merchants with different GDPR challenges
- Second wave: data as asset & trust relationship

# **GDPR for card payments parties's roles**

Tudor Nistor, Payments, FinTech Lawyer, Tudor Nistor Payments Law Office

# key concepts

## **Data Controller**

The data controller is the entity which, alone or jointly with others, determines the purposes and means of the processing of personal data (processing personal data for its own purposes).

## **Data Processor**

The data processor is the entity which processes personal data on behalf of the data controller (**serving someone else's interest**).

# complex analysis

to be performed in order to determine the role of the parties

## 01 Understanding the essential elements

“determines the purpose” of the processing of personal data

## 03 Understanding the essential elements

“jointly” to be interpreted as meaning "together with" or "not alone" in different forms and combinations

## 02 Understanding essential elements

“determines the means” of the processing of personal data

## 04 Analyzing the legal/factual circumstances

Capacity to “determine” may originate from different legal and/or factual circumstances

# about roles

How the main actors are positioning themselves when processing **cardholder/transaction** data?

Acquiring Institutions

Card Schemes

On-line Merchants

Processor on behalf of  
the merchant

Controller

Processor and  
Controller

Processor on behalf of  
the Acquirer

Jointly controller with  
the Acquirer

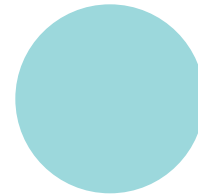
Controller



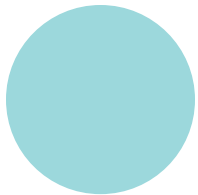
# why is important



Relationship with the consumers  
Observing the data subjects' rights



Keeping a record of the processing  
Different type of data



Notification of breaches within 72  
hours  
Competent authorities (and data  
subjects)

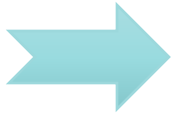


Accountability  
Controller is responsible for making  
sure all privacy principles are adhered  
to

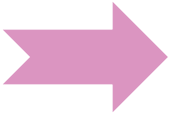
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GDPR imposes legal compliance obligations directly on controllers and processors.

# designation of a party as data controller / processor in a contract



contractual arrangements should always be checked against the **factual and legal circumstances** of the relationship between the parties



contractual designation **is not decisive** in determining the actual status of a party



where a processor, in breach of the GDPR, determines the purposes and means of any processing activity (i.e., makes its own decisions rather than following the controller's instructions), **that processor is treated as a controller** in respect of that processing activity

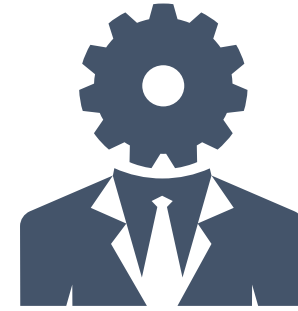
# GDPR: A Merchant's Perspective

Tatiana Rozoum, Co-founder, FINTECTURE



## Agenda

- What is open banking
- Benefits for merchants
- GDPR & Open Banking



## PAYMENT SERVICES DIRECTIVE 2 CREATES THIRD PARTY PROVIDERS (TPP)

**PSD2** regulation requires from European Economic Area **banks to give access to payment accounts** to authorised and regulated TPP  
via Open APIs



## BENEFITS FOR MERCHANTS TO USE A TPP

After the **authentication** of the payer by its bank,  
the TPP accesses via API the payers' account to **initiate a payment**  
on his behalf to the **bank account** of the **merchant**

# WHERE OPEN BANKING MEETS GDPR

Explicit **consent** of the payer

**to initiate transactions**

**to access the payers' data**

Use  
cases

Account to account instant  
payments ;  
Recurring payments ; Etc.

Get the status of a payment  
to the payee; Request to  
pay by a third party;  
Pay later (lending)





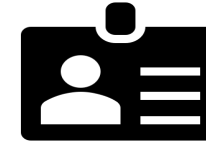
# **GDPR: A Merchant's Perspective**

## Protecting Consumer Data in an Open Ecosystem

Mark Beresford, Director, Edgar, Dunn & Company

## GDPR: A Merchant's Perspective

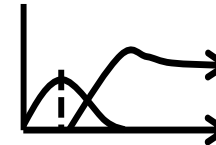
Personal Data



Merchants



GDPR wave-2



New Customer Experiences



Next steps



# Merchant Transaction Data

£45.60

Value

Shoes BLK 51518

Item

4<sup>th</sup> Oct 2018

Date

1

Quantity

12:40

Time

9

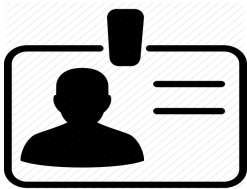
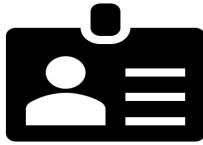
Size

Oxford St.

Location

90107880

POS



Name



Address



Location



Online Identification



Health Information



Income

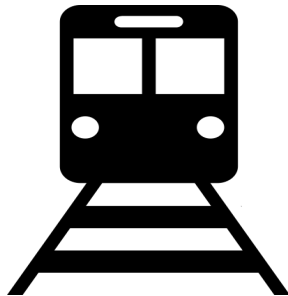
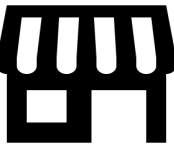


Cultural Profile

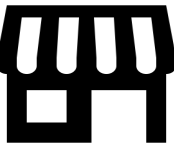


And more

## Different merchants have very different GDPR challenges



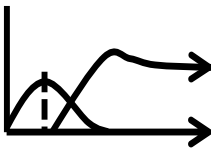
## Different merchants have very different GDPR challenges



# DATA



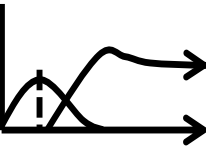
## What's new in the GDPR



There are a lot of new aspects in the regulation (to name the main ones...)

- Privacy notice
- Need to respond to subject access requests
- Right to be forgotten
- Need to tighten up data processing activities
- Improve data governance and business efficiency
- Right to data portability
- and others...

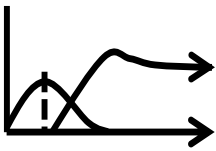




- ▶ The principle of data portability is set out in Article 20 of the GDPR:

*“The data subject shall have the right to receive the personal data concerning him or her... in a structured or commonly used and machine readable format and have the right to transmit those data to another controller without hindrance...”*

# What does data portability mean?



1



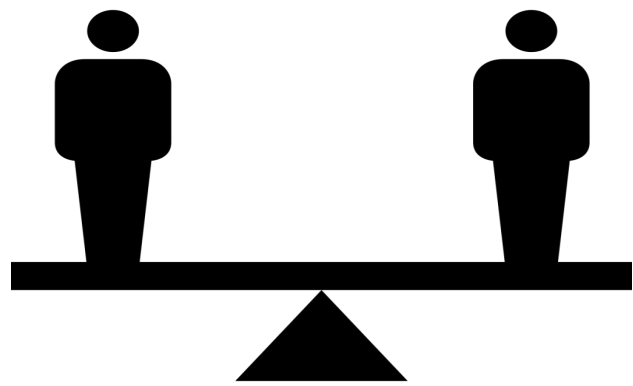
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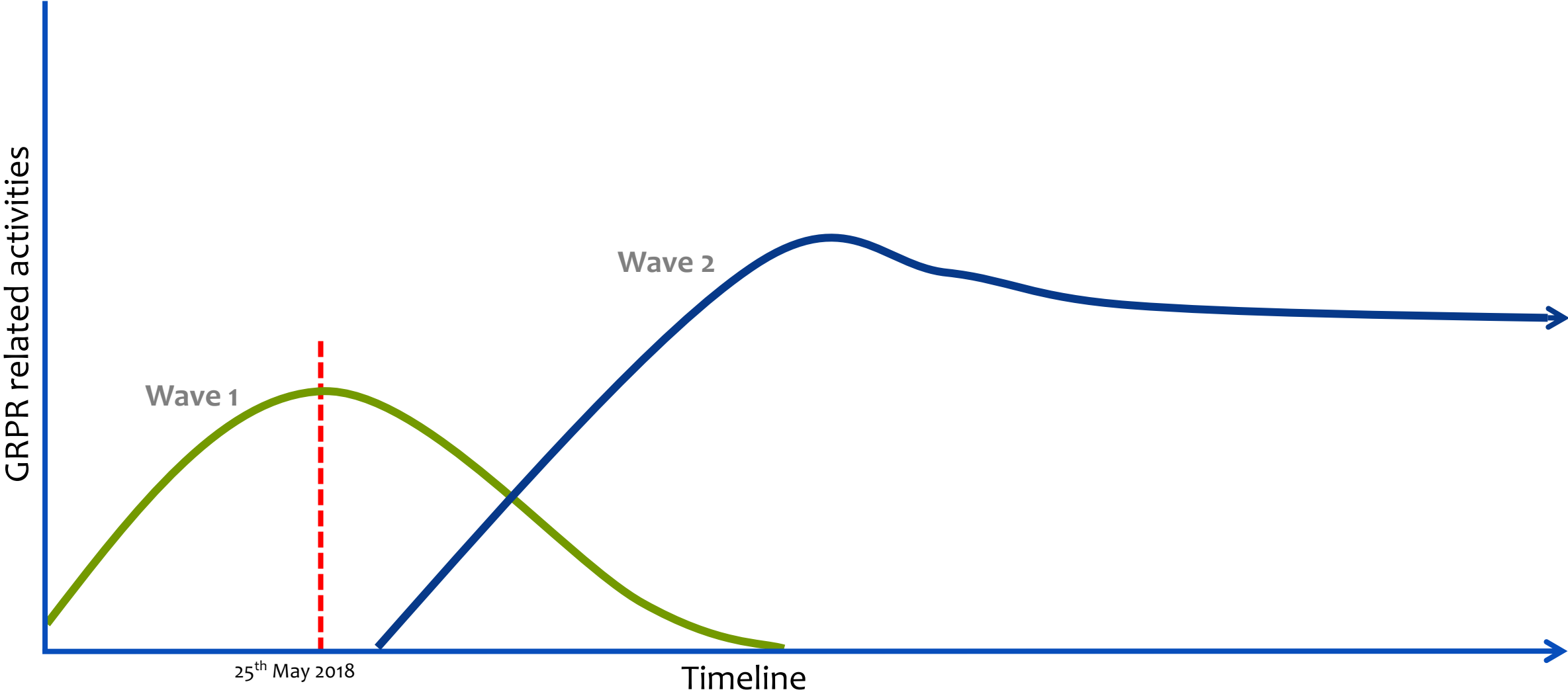
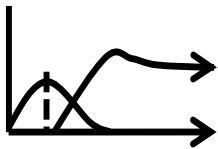
3



4























Now the initial GDPR euphoria is over, we will have a second wave



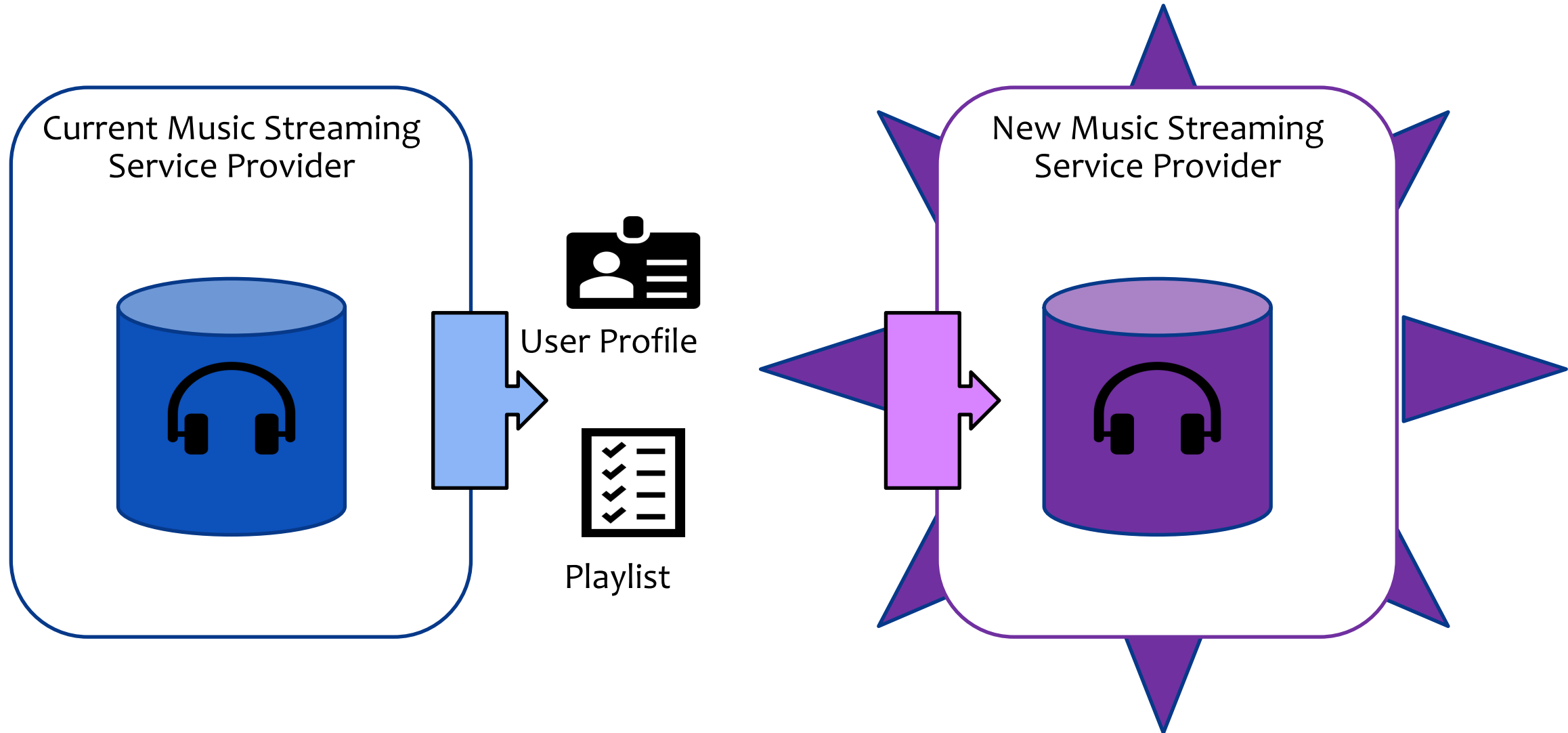
# TRUST

Merchants using data to differentiate themselves and their services by building trust

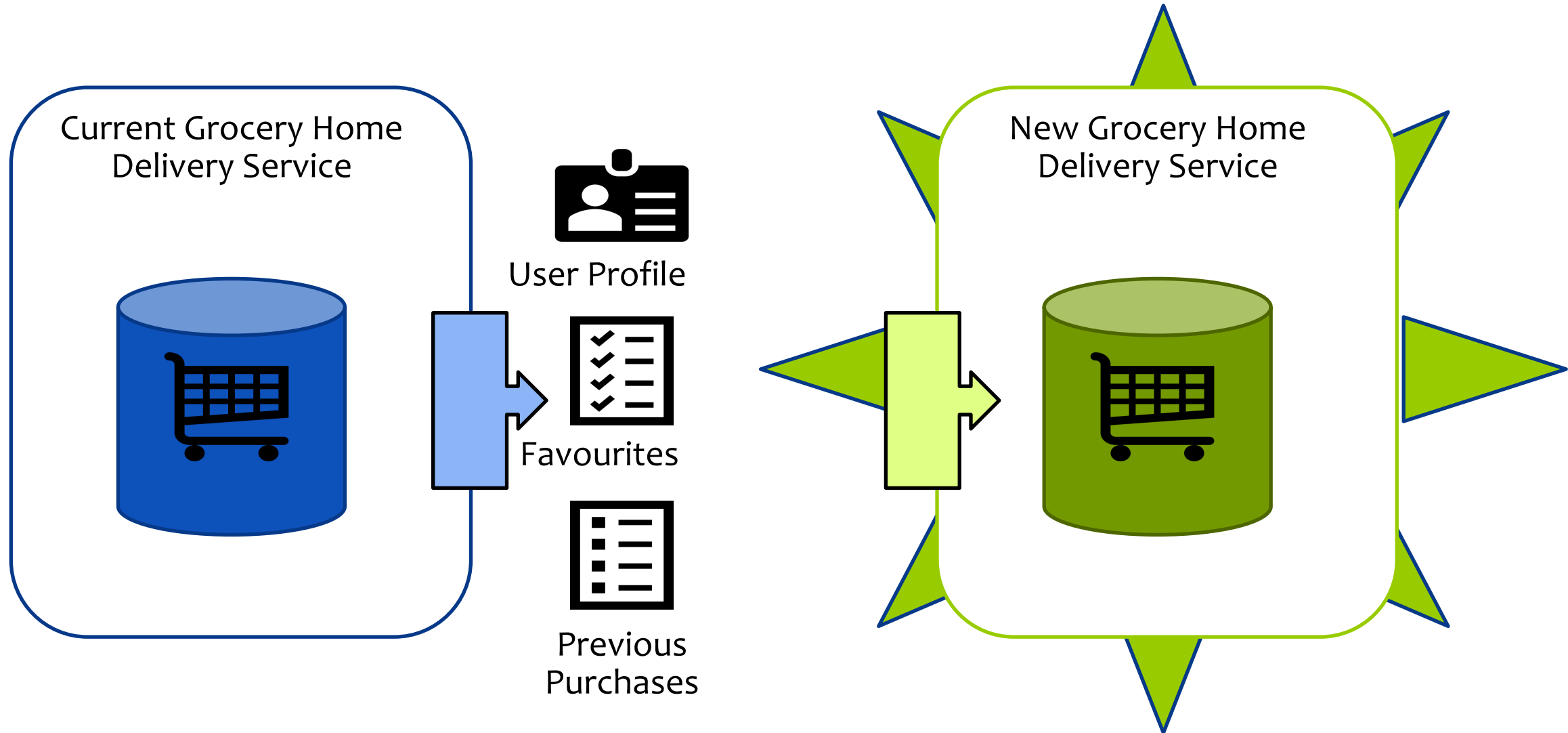
Retail	Meal Delivery	Grocery	Entertainment	Travel
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Wave 2

## Case Study: Music Streaming Service

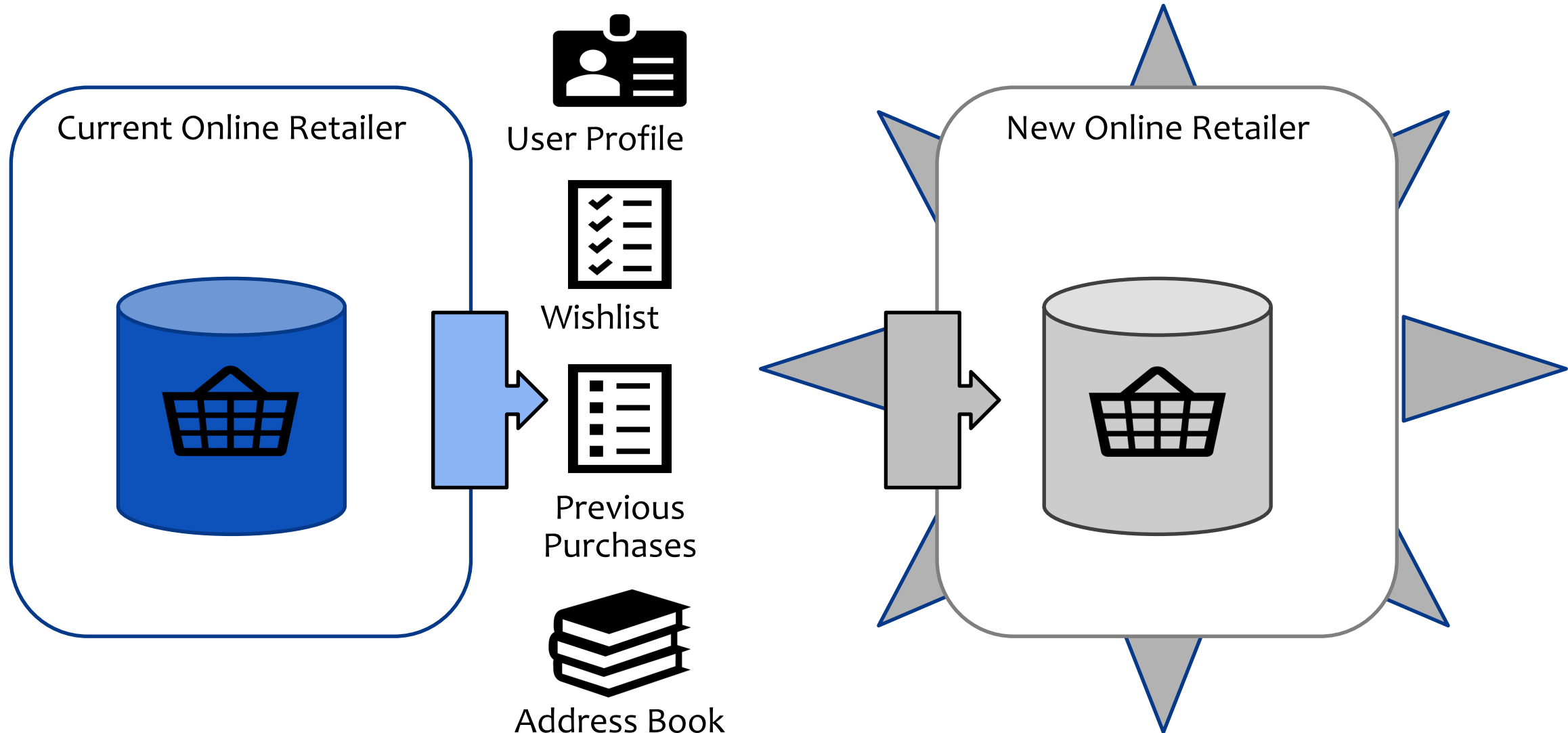


## Case Study: Grocery Home Delivery Service

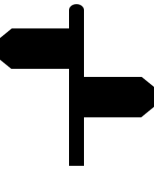




## Case Study: Online Retailer



## In this GDPR wave-2 what are the next steps for merchants?



1

**Merchants need to be the trusted partner to manage their consumer's data**

2

**Merchants must place greater emphasis on the role and value of consumer data**

3

**Merchants will harness the true power of personal data to create new services and valuable customer experiences**

# Q&A

Panelists are addressing questions from the audience.

**Thank you for attending!**

**GDPR**

**A Merchant's Perspective**

This webinar is a supportive initiative to:

**MPE 2019**, conference and exhibition, 19-21 February, 2019, Berlin

You can download the agenda at [www.merchantpaymentsecosystem.com](http://www.merchantpaymentsecosystem.com)