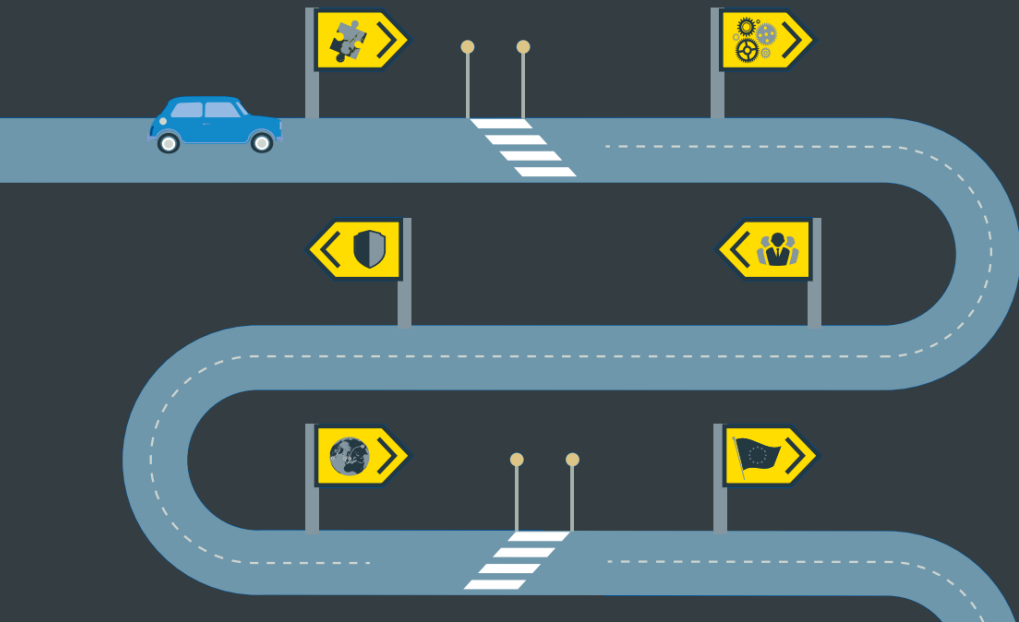


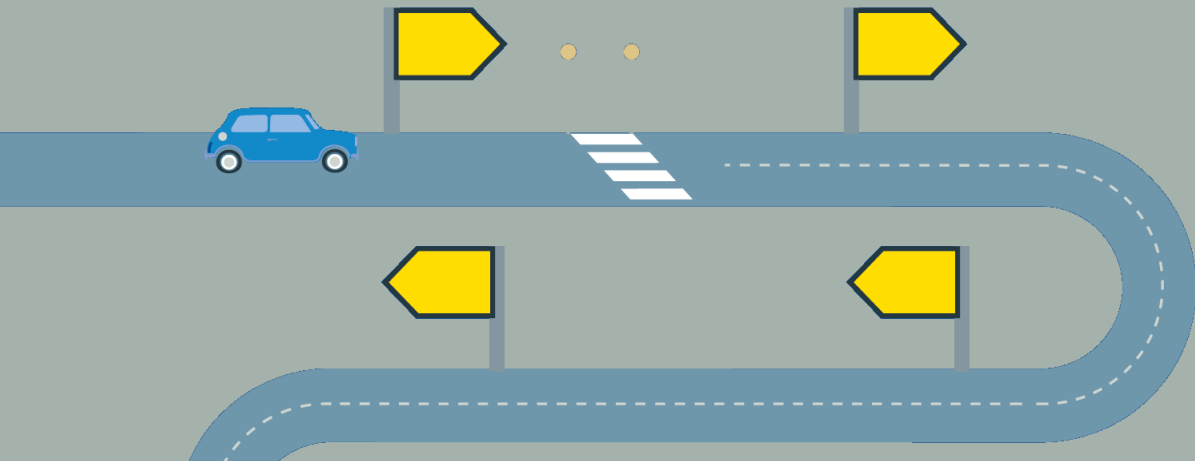
Bird & Bird & Disruptive Tech: Retail & Consumer



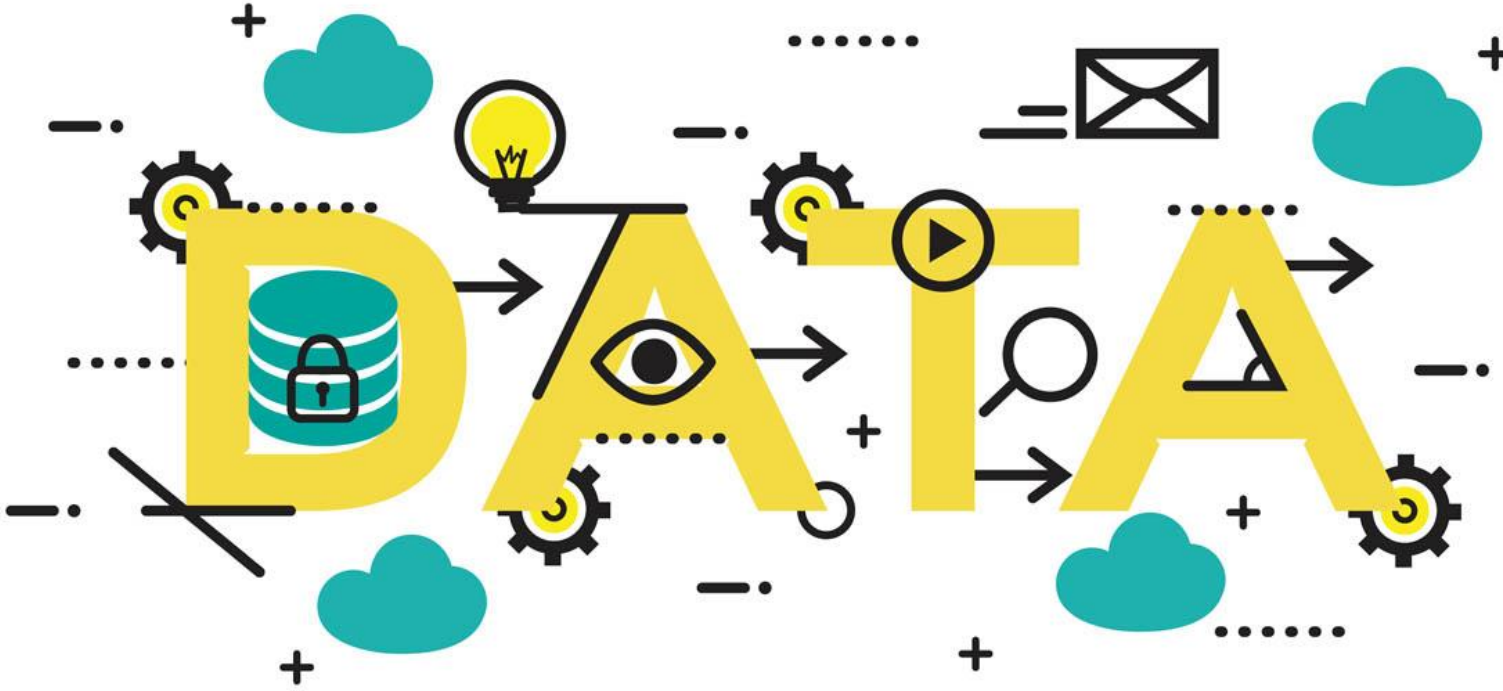
Racheal Sanni
Racheal.sanni@twobirds.com

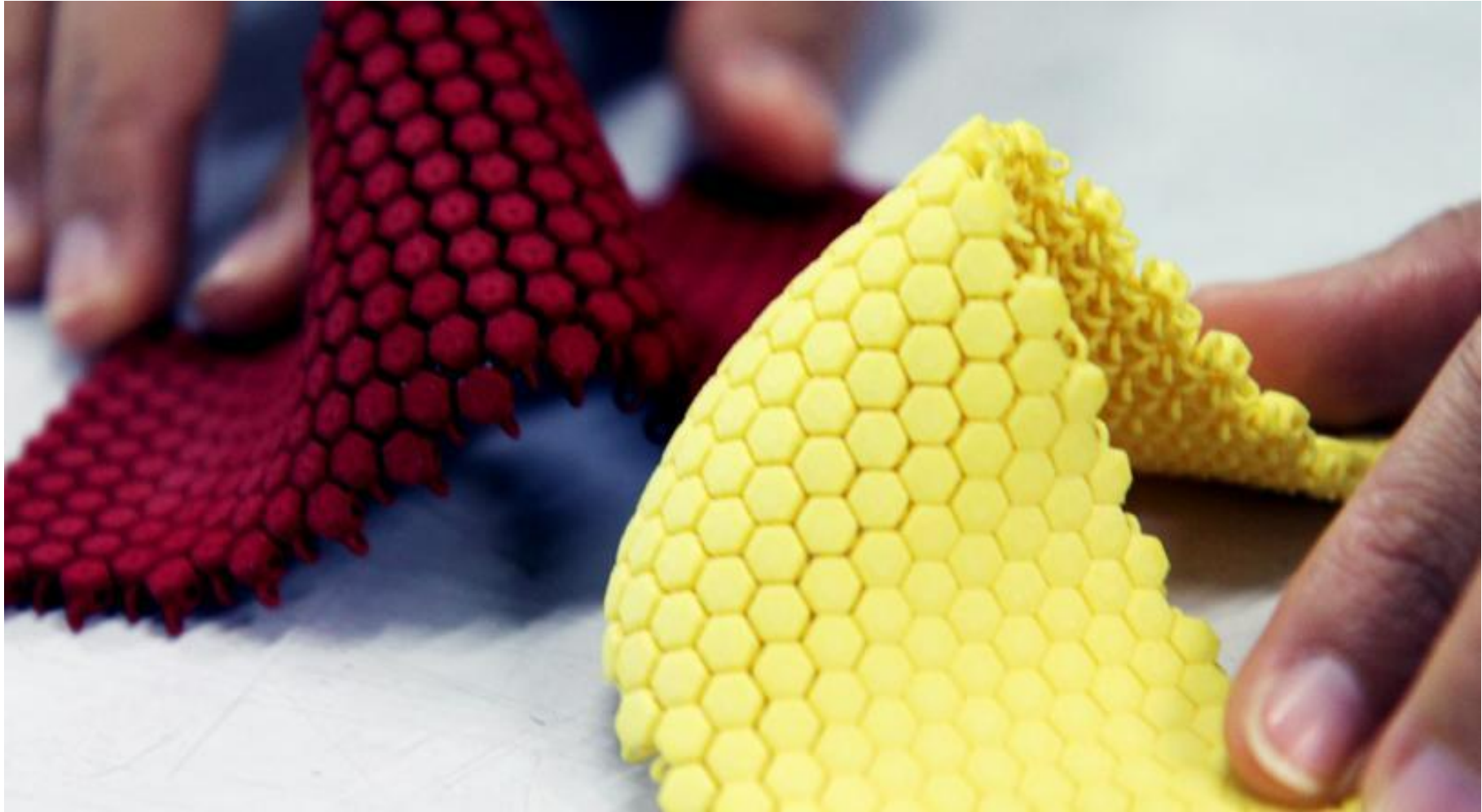
Associate, Dubai office

Disruptive Tech: Market Trends













Legal considerations

- Data Protection
- Intellectual property
- Consumer facing contracts such as Terms & Conditions and Privacy Policies
- Contracts with third party providers i.e. App Developers, fulfillment center companies



GDPR – What does it mean for companies in the Middle East?

Wider reach for controllers and processors: the extra territorial scope (Art 3)

EU Presence

- establishment – "effective and real exercise of activities through stable arrangements"
- where personal data is processed "*in the context of its activities*" (broad interpretation)

No EU Presence

- Where no EU presence exists, the GDPR will still apply when:
 - EU residents' personal data is processed in connection with goods/services offered to them (payment is not required) – intent is required here; or
 - the behaviour of individuals within the EU is "monitored" – intent not relevant. Online tracking for advertising purposes specifically highlighted

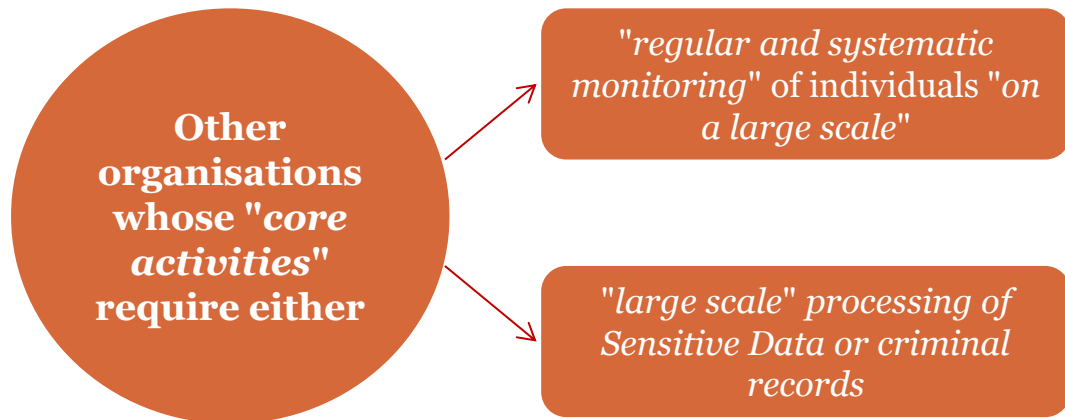
Processor: GDPR may also be relevant when a controller (caught by GDPR) appoints a processor: the controller will need to ensure that processor can implement "technical and organisational measures" to ensure processing meets GDPR requirements and concludes a contract containing specific contractual terms

Some specific examples: Further guidance on territorial scope expected from Art 29 WP

Scenario	GDPR applies to non EU entity?
Australian retailer with a website for orders/deliveries. Website is accessible to individuals in the EU in English. Currency is Australian dollars, address fields only allows Australian addresses	No
Dubai Tourist Board uses cookies to track past customers' (including EU based customers) browsing in order to target specific hotel and flight deals	Yes
Chinese flower delivery company allowing data subjects in the EU to make orders for fulfilment only in China	Yes
Singapore data centre which may host data relating to EU data subjects	Not entirely clear if Art 3 (2)(a) would apply to data processor. However, if it has EU customers(businesses) which are subject to GDPR, they will only be able to contract with the Singapore entity if it can meet GDPR standards.

Key obligations under GDPR

- *Breach notification*
- *Strict consent requirements*
- *New processor obligations*
- *Appoint Data Protection Officer*



Question & Answer

