

Leaning in to Data Privacy and GDPR

What's the sixties band Thunderclap Newman got to do with data privacy? A visionary who saw what was coming decades ago has theories.

Michelle Dennedy: GDPR, the General Data Protection Regulation in Europe, is now in full force, and unless you've been living under an already-compliant rock, you know it's having a major impact on global companies everywhere. Certainly in Europe and also here in the States and elsewhere. We often talk about the challenges of GDPR on this podcast. The lofty expectations, the enormity of it all, the enforcement, oy vey. But what about the opportunity it creates? Join us for the next 20 minutes as we speak with noted privacy expert and communications consultant John Berard, who will share his ideas on why the new regulation will actually be a boon to business. A gift, if you will, that has the potential to keep on giving. A fresh perspective is on the way.

Cybersecurity. Data protection. Privacy. You like to stay ahead of the curve and listen to experts who are leading the way and deriving greater value from data with a more organized approach to data privacy. You're like us, just a few deviations past the norm. You are a Privacy Sigma Rider.

Hello again, everyone. Michelle Dennedy here, Chief Sigma Rider and Privacy Officer here at Cisco. Just a short time ago, May 25, 2018 to be exact, GDPR finally and officially started to become enforceable. Bum, bum, bum. Of course, it's had a huge effect on companies, many of whom I'm sure are nervously hoping that they've taken the proper measures and precautions that are in full compliance with data policies and practices. But rather than assuming a position of fear and uncertainty, why not look on the bright side of this regulation and the many others to follow? Being in step with GDPR has the potential to cause a seismic shift in customer and consumer confidence, and can ultimately help companies.

John Berard is founder of Credible Context, a consultancy firm that helps companies market themselves through the persuasive power of their own story. He's also been on the board of the IAPP, the International Association of Privacy Professionals, so he knows a thing or two, or many hundreds, about data privacy. In fact, he was a key contributor on Jonathan's, my dad's, and my book, *The Privacy Engineer's Manifesto*. Welcome, John Berard.

John Berard: Michelle, it's great to be here today.

Michelle Dennedy: I'm so excited to have you here, John, because you always give a fresh take on things. The gift of GDPR, for some listeners who've been intimately and rigorously involved in managing compliance, where do you think we go from here?

John Berard: Well, I think the best thing to do is to think about new regulation as the kind of rules that business craves. I mean, we've been looking at privacy for the last 20 years through a fractured lens, almost a fly's eye of different rules and regulations from every different jurisdiction you could consider. Now, we have something that actually approaches a single platform, and there's nothing business likes more than a single platform they can all jump off from.

- Michelle Dennedy: Yeah. It's so true because I think ... As much as if you ask me if I like a rule, and particularly me, I'm not particularly great at following rules, when you know what to do, you know how to live within that space and actually take advantage of that.
- John Berard: Exactly right. And with GDPR, the complaints that we've seen over the last two years have been about the ambiguity of the regulation, about the cost of the regulation, about the uncertainty of what it's going to do to existing customer relationships and the supply chain, when in fact, the investment that companies are making to comply with the rules actually is seed funding for aggressive marketing.
- John Berard: The fact is that GDPR is a great gift because not only does it create the kind of rules that we can live with, but it also means that we can now meet customers' expectations. In the past, companies have essentially tried to stay below the tree line because of the fractured nature of privacy rules and regulations. Now, with a consistent set of rules and regulations, companies can actually now stick their head above that tree line and start talking about what they are doing, why they're doing it, and ultimately create greater customer loyalty.
- Michelle Dennedy: Yeah. I think if you are already investing heavily in trying your best in a fractured world, when you have a more harmonized world, you really can, to stick with your metaphor, get above the tree line instead of walking in zig-zagged lines. You can sort of cite where you're going next and aim your targets, if you will.
- John Berard: The facts as we see them on the ground, there have already been lawsuits that have been filed in Europe, there is a heightened sense of awareness among consumers that privacy is an issue of great importance to them. It's pretty clear that the expectation of customers, the investment that companies have made in privacy so as to be compliant, come together in a very interesting way that essentially takes the gag off companies that have been reluctant to talk about privacy, to begin talking about what they're collecting, why they're collecting it, how it works to the advantage of the consumers that they seek to gain and to keep. I think that ultimately, it becomes, as I have heard one giant in the business, Jonathan Fox at Cisco, say, that GDPR is a gift.
- Michelle Dennedy: It is a gift. I think that's right. I love to hear your optimism, particularly with a guy whose Twitter handle is Dark & Stormy. What's up with that, John? Tell us about what that's all about.
- John Berard: You know, it's no secret that it's a turbulent world out there, Michelle. Awareness is the first step to being prepared to meet it. So, dark and stormy is not just a description of what I see, but it's motivation for anybody who wants to take a lead on making privacy something that we talk about as opposed to avoiding.
- Michelle Dennedy: Yeah, I love that a lot, and I think it's also the intro to something really fabulous. You know, famously, it was a dark and stormy night. So, John, there are hundreds, nay, thousands of consultants running around telling me what to do or trying to do so. You're a guy who's been in this game for a while. Can you—
- John Berard: I have been.

Michelle Dennedy: Let's take a step back a little bit. Let's go back in the last century, Wayback Machine, in 1997. Where were you? What were you doing? Tell us a little bit more about your past and your passions for privacy.

John Berard: So, one morning about 5:00, my phone rang—

Michelle Dennedy: Was it a dark and stormy morning?

John Berard: It was a dark and stormy morning—

Michelle Dennedy: Okay, thank you.

John Berard: —in San Francisco, and it was the fraud team at MasterCard telling me that a couple of guys in Queens had created a set of credit cards in my name, and that they wanted to let me know that they had discovered it and stopped it. My question was, how did that happen? From that interaction, that question led me to a deep interest and a professional career in which privacy has played a large role. It led me to fall in with Esther Dyson, at the Electronic Frontier Foundation, and Lori Fena.

When Esther and Lori were hothousing trustees, it led me to becoming a founding member of the board of that online privacy rights group. It led me to becoming a member of and a member of the board of the IAPP. In fact, after a long career in corporate communications, it led me to get involved with a startup that was focused on creating consumer-managed interest files, so that advertisers wouldn't have to sniff the internet, but could know because people would tell them what they were interested in.

Michelle Dennedy: Yeah, imagine actually talking to and listening to your customer.

John Berard: It's quite amazing.

Michelle Dennedy: What a radical idea.

John Berard: I'm reminded though, especially when I think about having to shut it down in 2009 because I couldn't get the kind of scale advertisers demand, I kept thinking about that line from Butch Cassidy and the Sundance Kid, where Butch suggests they go to Bolivia where the pickings are easy, and Sundance squints at him and says, "You keep thinking, Butch. That's what you're good at." And Butch says, "I got 20/20, and the world wears bifocals." I like to think that, 10 years ago, I saw something that is now quite relevant.

Michelle Dennedy: You had 20/20 for sure. I think I am still hearing about and actually investing in, with time and treasure, in companies that are looking at consumer-driven choice and being able to tell rather than be told what we're interested in online. I still think, you know, don't get your bifocals ready, you still have clear vision.

John Berard: Well, I am a bit of a sponge and I'm a big fan of Fatemeh Khatibloo at Forrester.

Michelle Dennedy: Me too.

John Berard: She has begun to talk about something called zero-party data.

Michelle Dennedy: Okay, let's talk about zero-party data. I'm a girl who likes a party.

John Berard: So, we all know about first-party, second-party, and third-party data, but zero-party data is that stuff that we get right from the consumer. It's that information that is offered in exchange in a transaction that is unadulterated, that is not observed. It's not extrapolated or algorithmed to within an inch of its life. She coined the phrase "zero-party data", and I like that quite a bit because it suggests, and I think GDPR encourages, companies to pay close attention to what their customers say so that they can use that as the basis for a trusted relationship.

Michelle Dennedy: Yeah. I think that's really important, and I think you talked a little bit about ... I don't know if you talked about zero-party data ... but about these concepts in a recent blog post that I just loved and we had to talk about, which is—

John Berard: Oh, this is the Thunderclap Newman one?

Michelle Dennedy: Yeah.

John Berard: Well, I—

Michelle Dennedy: Explain yourself, John.

John Berard: I was a big fan of Thunderclap Newman back in the day, and it struck me from a communications perspective, from a business leadership perspective, it's always the instigators who create forward movement.

Michelle Dennedy: I like that you say instigator and not disruption. Disruption is like pulling someone's chair out and letting their butt hit the floor.

John Berard: Right.

Michelle Dennedy: Instigation is something else. Sorry to interrupt, but go—

John Berard: Well, no, instigation takes courage. I mean, we are so used to running with the pack, just the willingness to do something different than everybody else takes fortitude. But here's an opportunity, I think, to take a leadership position. The GDPR, because it creates a strong framework because it requires companies to invest because it creates consumer expectation, is perfectly positioned to give companies the courage not just to think differently, but to instigate and to take a bit of a lead.

Michelle Dennedy: Yeah, and I think courage is ... I think it's often falsely equated with blind bravado, but I think foolhardiness just is like a dude jumping off a cliff. But real courage is, particularly in this data world, is really taking advantage of things like a harmonized law like GDPR, getting your act together, summoning that institutional fortitude, and then the courage is not just doing something slightly different than the pack that's gonna keep your competitor short-footed, but really taking the lead to somewhere really positive that your customers want to go to.

John Berard: I couldn't agree more. That's the message that I try to leave with anybody who will listen to me about the effect, the market effect, of GDPR. People who think that it's only about the EU, people who think it's only about citizens of the EU, people who think that it's not about first-party data, this is a far-reaching regulation. It will have effect far beyond the map of the European Union, whether the UK is in it or out of it.

Michelle Dennedy: Yeah, we'll see.

John Berard: It's having a direct effect already as far as Argentina and as diverse as South Korea and Bermuda. Countries that are becoming interested in creating a privacy regime, they are looking to the EU as a model. I believe it's that instinct to use the GDPR, the activities in the EU, as a model, which will create not just a seeming platform for companies, but ultimately, a real platform for companies.

Michelle Dennedy: Yeah. I think that's so powerful too because, of course, it's easy to attach jurisdiction to the GDPR actual law, that I think its opportunity, as you say, is really being inspired by the instigation of this. So, two things I want to pick up on as we were chatting about this and from your blog post. First of all, there was an offer for you to sing a few bars from Something in the Air.

John Berard: Well, it's a very nice song, you know. It's (singing).

Michelle Dennedy: Yes!

John Berard: And that's right. Gotta do it.

Michelle Dennedy: You know it's right. Call the instigators, dropping the mic, drop it hard.

John Berard: That's why, in terms of GDPR, in a flip way, I'd often say that it really stands for Gotta Do People Right.

Michelle Dennedy: Gotta do people right. I've heard other takes on the acronym, but I like yours the best.

John Berard: There you go.

Michelle Dennedy: Darn. John, you're dark and stormy, but you've totally lifted us up, man.

John Berard: Well, I'm glad to have helped.

Michelle Dennedy: Hey, you know what? I have a lurker here that we promised we were going to bring on here. She's already starting to blush. We have a wonderful intern this summer, her name is Sarah Raines. Sarah, say hello.

Sarah Raines: Hi, John.

John Berard: Hello, Sarah. How are you?

Sarah Raines: I'm doing well, thanks. How about you?

John Berard: I'm great.

Michelle Dennedy: So, I wanted to say ... Sarah was in the studio today and I just thought, "Of anyone, John is decades into his instigation career." What kind of advice do you give to someone working on a week and a day into her career here at Cisco to be an instigator in how she thinks about data? I'm going to let the conversation go where it will between the two of you. You know, John, how do we become ... How do we call out the instigators?

John Berard: Well, it's a hard question to answer because it is so easy to answer, and so therefore, so easily misunderstood. But the longer you work in a company, the more important it is to look at it from the outside. There's always a danger, over time, of becoming caught up in the day-to-day of the company operations, when in fact, the best way to help is by maintaining a sensitivity and understanding and a commitment to the customers in the outside world as they look at the company. So, if you maintain that outside-in perspective, then you are always able to offer the kind of advice and counsel that will help a company move forward.

Michelle Dennedy: I think it's good advice. You know, you've got that a week and a day into your reign here.

Sarah Raines: You know, what's so amazing about this company is just the number of people that I have access to, and I've learned so much by asking questions of the people around me, across from me, here and in RTP. Before this, I was always that person, you know, "Terms and conditions. Check yes." You know, get to the fun stuff, get past all of these requirements. And now, even a week and a day into my career, I'm already asking, "What does this mean for me? What does this mean for the company?" You can't just check yes on privacy and security. You have to build it into your development and build it into every product that you make.

John Berard: You couldn't have said it any better. In fact, with regard to privacy, if you begin to think of it as a static goal, then you have lost the game. Privacy is a constantly changing interaction between individuals, between companies and individuals, between the companies themselves. Each of us has a different set of requirements for what is private and not, almost every hour of every day. So, the dynamic nature of the privacy relationship makes a focus on the data even that much more important because the rules around not just the collection but also the use of data, change as the transaction, as the interaction evolves. So, it becomes important to see privacy as dynamic and not a static goal.

Michelle Dennedy: Yeah. I love that, and I think it ties back in to your zero-party data quote. You know, data as the focus and data moving very rapidly. I want to ask you a question. You know, we were chatting earlier about a coffee that you were having in Amsterdam ... He's already chuckling; he remembers. So, tell us about that coffee and how it kind of shaped your thinking around GDPR and beyond.

John Berard: Sure. There was, when GDPR was first being framed, this idea that a data subject was really an EU citizen. We came to understand that it wasn't, it was a set of rules governing the collection and processing of data in and about the EU. I realized, when I was flying back from a meeting in Abu Dhabi and transiting in Amsterdam on my way to the United States ... Well, certainly, Abu Dhabi is not covered by the GDPR, and the United States is not covered by the GDPR, but I had a three-hour layover in Amsterdam, which is very much covered by the GDPR. I used my Wells Fargo credit card to buy breakfast and such at the Starbucks there. I used my credit card to

make changes to my flight on Delta. And I realized that, as I was leaving, that I had just created a data trail—

Michelle Dennedy: An international data trail.

John Berard: —in the EU. Which meant that all that data processed by those companies, whether they knew it or not, was now under cover of the GDPR, which meant that I was now a data subject covered by the GDPR. My feeling is that many companies will know this because they have made other arrangements in order to operate in the EU, but some companies won't. They essentially will feel as if they have been taken into the GDPR through a side door. My view is that they should embrace that. My view is that you should lean in to privacy, to paraphrase somebody that we have heard in the past.

Michelle Dennedy: To lean in.

John Berard: We should lean in to privacy or we will lose.

Michelle Dennedy: Yeah.

John Berard: The expectation of customers governs the marketplace. Customers expect that their data will be handled properly, that it's useful to create value for them. Companies that can not tell that story, companies that don't tell that story, companies that won't tell that story are going to see market share slide as opposed to rise on the basis of this new era that we are entering with regard to the relationship between companies, consumers, and the data that they exchange.

Michelle Dennedy: Yeah, I think it's so insightful because if you think about it from your own personal experience, does it make any sense at all for you to not be protected in Abu Dhabi and not be protected when you land home in San Francisco, but have this bubble of this coffee that is the one element of protection? And I would say of course not. Many of us, I travel way too much for business, but it's just me. It's me in New Zealand, it's me in Germany, it's me in San Francisco, it's me in Research Triangle Park or RTP, and you're absolutely right. If you lean into these rules and regulations, you can start to respect that individual, rather than trying to do silly things like saying, "Oh, I can anonymize to get out of the law," or, "I can encrypt to make myself not subject to these laws," or, "I can even attempt localization with customers and employees that are just simply not local." They move.

John Berard: I think you're absolutely right. Instead of trying to extrapolate truth onto the cover of unseen data collection, we now have the opportunity to ask in exchange. I think that's what GDPR is encouraging, I think it will be seen as valuable over time as customers either leave companies because they aren't getting what they want or join them because they do, and I believe that there's probably going to be a change in the pursuit of scale, at all costs, when those costs are as high as the cost of violating the GDPR can be.

Michelle Dennedy: I couldn't have put it better myself. I kind of feel like between yourself, Sarah, and myself, I sort of feel like the regulators that are trying to wheel GDPR, they kind of owe us a commission. This has been a real commercial for them today. So, John Berard, founder of Credible Context, how do we best find you if we are interested in curating our data better and creating stories and really treating the data subject with respect over time?

John Berard: Well, I think you can always go @DarkandStormy. No, it's @CredibleContext, really.

Michelle Dennedy: @CredibleContext.

John Berard: @CredibleContext on Twitter, that's the easiest way to get me.

Michelle Dennedy: So, are you and Sarah gonna take us out on a rendition of Thunderclap Newman?

John Berard: I am not. I've already done my singing for the day.

Michelle Dennedy: It's true. Sarah, it's all on you.

Sarah Raines: Oh, no.

Michelle Dennedy: What's your jam? What's on your—

Sarah Raines: Ugh. It's all new stuff, man.

Michelle Dennedy: What's your new stuff?

Sarah Raines: Um. Oh.

Michelle Dennedy: Who's your favorite artist right now?

Sarah Raines: My favorite artist. I really like Lorde.

Michelle Dennedy: Excellent. Good choice.

John Berard: I can't even try that.

Michelle Dennedy: She talks about Grey Goose in the bath tub. That spoke to me. I don't know why.

Sarah Raines: You know, you start to get to be the same age as these artists and you're like, "Oh man, what am I doing?"

Michelle Dennedy: Oh, don't even get me started. I'm like Lawrence Welk's age. Well, thank you guys very much. I think the takeaway from this is really that GDPR, simply just the beginning in leveraging the work that we've done over these many years, and these businesses that were early for their time really controlling consumer information, putting the individual back in the driver's seat, if you will. I mean, that's really the opportunity in all of this. So, thank you guys. Thank you, Sarah. Thank you, John. Thank you, production team. It's a wrap for the Riders once again.

John Berard: Enjoy the day.

Michelle Dennedy: You've been listening to Privacy Sigma Riders brought to you by the Cisco Security and Trust Organization. Special thanks to Kory Westerhold for our original theme music. Our producers are Susan Borton and David Ball. You can find all our episodes on trust.cisco.com, or subscribe wherever you listen to podcasts. Then, please take a moment to review and rate us on iTunes.

To stay ahead of the curve between episodes, consider following us on Facebook, LinkedIn, and Twitter. You can find me, Michelle Dennedy, on Twitter, @MDennedy. Until next time.