# CONSENT MANAGEMENT – IMPLEMENTATION FRAMEWORK

**Abstract**

As the last date for data privacy regulations gain importance across the world, organizations are hustling towards having a readymade solution for the problems in hand. This document aims at taking a stab towards that. With the help of prevalent use cases, we have aimed at creating a solution for each use cases pertaining to web consent, from a process, technology, data, governance and legal perspective. We have also documented a checklist that every organization needs to stick to in order to be compliant with Consent Management.

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## Introduction – Consent Management

Consent Management is undoubtedly one of the strongest options that not only exhibits the intention of an organization to pass the control of the data of individual in the individual's hands, but also provides the organization a valid legal basis for processing the data. We have proposed a solution with its base rooted in the requirements as per data privacy regulations across the globe.

With the help of the official documents of data privacy regulations, their explanations by relevant official agencies and the most prevalent examples or use cases available in the market, we have devised solution plan for each scenario. We have also provided a checklist of items that an organization needs to review itself against to gauge whether it is compliant to the Consent Management. With this document handy, an organization can quickly chalk out a plan of its own and not only understand where it stands today, but also will be able to formulate a plan to how it needs to act tomorrow.

## Proposed framework for the solution

Our solution framework consists of various scenarios through which consent can be captured from data subjects. It covers consent collected through web, mobile and offline mode. This POV will discuss the consent management from the perspective of web consent. This report considers different user stories where data subject performs various set of activities during the consent process. For each use case, a solution has been proposed categorizing it into five dimensions i.e. Process, Technology, Data, and Governance & Legal.

## Web consent

**1. Use Case: Online form while signing up:**

| Action | Want to provide consent | Want to modify the mode of consent (previously given) | Do not want to provide consent | Want to withdraw consent (previously provided while signing up) |
|---|---|---|---|---|
| **Process** | * Provide checkbox/radio button option for consent<br>* Remove Blanket acceptance of general terms and conditions<br>* seek consent on what mode of communication<br>* Provide an option to say No/Skip<br>* Mention explicitly what data will be used, what is the purpose for which the consent is sought for, how to withdraw consent, details of the legal SPOC<br>* On submit, trigger an email/message/call based on the mode of communication to confirm the request<br>* Complete the process once the confirmation is obtained<br>* Maintain a record of consent (data subject's details, information provided to him during consent, date of consent, mode of communication etc.) | * In the "My Accounts"/"Profile" page, provide the list for which the data subject has provided consent.<br>* Provide an option/link to modify consent" for each.<br>* Once the data subject clicks on the link, provide option on modes of communication and contact details for each.<br>* On submit, trigger an SMS/Email/Call based on the mode of communication in order to confirm the request (click on a link to confirm, share an OTP to confirm etc.)<br>* Update the database to capture the modification of consent. | * Provide an option to say No/Skip<br>* Let the data subject proceed even on not providing consent (if the consent is not compulsorily needed)<br>* Terminate the process of seeking consent on submit.<br>* Do not maintain a record of consent (data subject's details, information provided to him during consent, date of consent, mode of communication etc.) | * In the "My Accounts"/"Profile" page, provide the list for which the data subject has provided consent. Provide an option/link to "withdraw consent" for each.<br>* Once the data subject clicks on the link, trigger an SMS/Email/Call based on the mode of communication in order to confirm the request (click on a link to confirm, share an OTP to confirm etc.)<br>* Update the database to capture the withdrawal of consent.<br>* Complete the process of withdrawal. |
| **Technology** | * Data Subject should be Provided with the list of mode of communication<br>* Data subjects should be Provided with the list of different processing activities in plain and clear text (easily understandable language) along with separate check box/radio button to get consent on the online form<br>* Mention the procedure to withdraw consent<br>*Authentication mechanism should be implemented<br>* authenticate the details provided by the participant<br>* On submit, trigger an email/message/call based on the mode of communication<br>* Store the consent data in database with details of Date of consent, Mode of communication, List of processing activities agreed upon etc. | * In the profile page, Provide the list of activities for which the data subject has given consent<br>* Authentication of data subject should be done before modification/removal of consent<br>* On submit, trigger an SMS/Email/Call based on the mode of communication in order to confirm the request (click on a link to confirm, share an OTP to confirm etc.)<br>* Update the database table with the modified consent provided by the data subject | * Check Box provided for obtaining consent must be non - Mandatory<br>* Store the data as "No Consent" for the unchecked list boxes | * In the profile page, Provide the list of activities for which the data subject has given consent<br>* Authentication of data subject should be done before modification/removal of consent<br>* On submit, trigger an SMS/Email/Call based on the mode of communication in order to confirm the request (click on a link to confirm, share an OTP to confirm etc.)<br>* Update the database table with the modified consent provided by the data subject |
| **Data** | * Remove the mandatory option from the list of fields to be entered by the data subject. If there are mandatory fields then Proper reasoning must be mentioned as to why the data ingestion is necessary | | | |

| Action | Want to provide consent | Want to modify the mode of consent (previously given) | Do not want to provide consent | Want to withdraw consent (previously provided while signing up) |
|---|---|---|---|---|
| Governance | * Maintain a record of consent for different processing activities<br>* List of processing activities should be provided to the legal SPOC<br>* Proper Auditing of Data to ensure right data is collected for right business purpose | * Maintain a record of consent for different processing activities<br>* List of processing activities should be provided to the legal SPOC<br>* Proper Auditing of Data to ensure right data is collected for right business purpose | | |
| Legal | | | *No legal/financial implications on withdrawing consent: While capturing data and consent, Controller should mention that withdrawing consent does not lead to any costs for the data subject and thus no clear disadvantage for those withdrawing consent. | |

## 2. Use Case: Online form while doing a transaction/placing an order:

| Action | Want to provide consent | Want to modify the mode of consent (previously given) | Do not want to provide consent | Want to subscribe to Email newsletterst |
|---|---|---|---|---|
| Process | * Provide option to data subject to select checkbox/radio button to give consent,<br>* Remove Blanket acceptance of general terms and conditions<br>* seek consent on what mode of communication does the subject prefer in case consent is sought for marketing communications etc.<br>* Provide an option to say No/Skip<br>* Mention explicitly what data will be used, what is the purpose for which the consent is sought for, how to withdraw consent, details of the legal SPOC<br>* On submit, trigger an email/message/call based on the mode of communication selected * Complete the process once the confirmation is obtained<br>* Maintain a record of consent (data subject's details, information provided to him during consent, date of consent, mode of communication etc.) | * In the "My Accounts"/"Profile" page, provide the list for which the data subject has provided consent.<br>* Provide an option/link to modify consent" for each.<br>* Once the data subject clicks on the link, provide option on modes of communication and contact details for each.<br>* On submit, trigger an SMS/Email/Call based on the mode of communication in order to confirm the request (click on a link to confirm, share an OTP to confirm etc.)<br>* Update the database to capture the modification of consent. | * Provide an option to say No/Skip<br>* Let the data subject proceed even on not providing consent (if the consent is not compulsorily needed)<br>* Terminate the process of seeking consent on submit.<br>* Do not maintain a record of consent (data subject's details, information provided to him during consent, date of consent, mode of communication etc.) | * Provide option to data subject to provide the subject's age and email id<br>* Mention the method of how to unsubscribe if the subject wishes to<br>* On submit, trigger an email in order to confirm the request (click on a link to confirm)<br>* Complete the process once the confirmation is obtained<br>* Maintain a record of consent (data subject's details, consent date etc.) |
| Technology | * Data Subject should be Provided with the list of mode of communication<br>* Data subjects should be Provided with the list of different processing activities in plain and clear text (easily understandable language) along with separate check box/radio button to get consent on the online form<br>* Mention the procedure to withdraw consent (Platform details, process details etc. )<br>*Authentication mechanism should be implemented<br>* authenticate the details provided by the participant<br>* On submit, trigger an email/message/call based on the mode of communication selected<br>* Store the consent data in database with details of Date of consent, Mode of communication, List of processing activities agreed upon etc. | * In the profile page, Provide the list of activities for which the data subject has given consent<br>* Authentication of data subject should be done before modification/removal of consent<br>* On submit, trigger an SMS/Email/Call based on the mode of communication in order to confirm the request (click on a link to confirm, share an OTP to confirm etc.)<br>* Update the database table with the modified consent provided by the data subject | * Check Box provided for obtaining consent must be non - Mandatory<br>* Store the data as " No Consent" for the unchecked list boxes | * Maintain a record of consent (data subject's details, consent date etc.) |

| Action | Want to provide consent | Want to modify the mode of consent (previously given) | Do not want to provide consent | Want to subscribe to Email newsletterst |
|---|---|---|---|---|
| Governance | * Maintain a record of consent for different processing activities<br>* List of processing activities should be provided to the legal SPOC<br>* Proper Auditing of Data to ensure right data is collected for right business purpose | * Maintain a record of consent for different processing activities<br>* List of processing activities should be provided to the legal SPOC<br>* Proper Auditing of Data to ensure right data is collected for right business purpose | | * Provide an option to data subject to provide the subject's age and email id<br>* Mention the method of how to unsubscribe if the subject wishes to<br>* On submit, trigger an email in order to confirm the request (click on a link to confirm)<br>* Complete the process once the confirmation is obtained |
| Legal | | | * No legal/financial implications on withdrawing consent: While capturing data and consent, Controller should mention that withdrawing consent does not lead to any costs for the data subject and thus no clear disadvantage for those withdrawing consent. | |

## 3. Use Case: Online Subscription to Newsletters:

| Action | Want to unsubscribe to Email newsletters | Want to subscribe to Email/SMS newsletters |
|---|---|---|
| Process | * In each of the newsletter emails, provide a link to unsubscribe.<br>* On clicking the link, trigger an email to confirm the withdrawal process (click on the link to confirm)<br>* Complete the process once the confirmation is obtained<br>* Maintain a record of consent (data subject's details, consent withdrawal date etc.) | * Provide option to data subject to provide the subject's age, mode of communication and contact details<br>* Mention the method of how to unsubscribe if the subject wishes to<br>* On submit, trigger an email/message based on mode of communication selected, in order to confirm the request (click on a link to confirm, share an OTP to confirm etc.)<br>* Complete the process once the confirmation is obtained<br>* Maintain a record of consent (data subject's details, communication mode, consent date etc.) |
| Technology | * Update the "Consent Database" so that the modification request post the confirmation. | * Maintain a record of consent (data subject's details, consent date etc.) |
| Governance | * In each of the newsletter emails, provide a link to unsubscribe.<br>* On clicking the link, trigger an email to confirm the withdrawal process (click on the link to confirm)<br>* Complete the process once the confirmation is obtained<br>* Maintain a record of consent (data subject's details, consent withdrawal date etc.) | * Provide option to data subject to provide the subject's age, mode of communication and contact details<br>* Mention the method of how to unsubscribe if the subject wishes to<br>* On submit, trigger an email/message based on mode of communication selected, in order to confirm the request (click on a link to confirm, share an OTP to confirm etc.)<br>* Complete the process once the confirmation is obtained<br>* Maintain a record of consent (data subject's details, communication mode, consent date etc.) |

## 4. Use Case: Online Subscription to Newsletters (if modes other than Email are also available):

| Action | Want to modify the mode of consent (previously given) | Want to unsubscribe to Email/SMS newsletters | Want to provide consent |
|---|---|---|---|
| Process | * In each of the newsletter emails/message, provide a link to change the mode of communication.<br>* On clicking the link, direct the subject to a page to change the mode of communication<br>* Once modified, trigger an email/message to confirm the modification process (click on the link to confirm, share the OTP to confirm)<br>* Complete the process once the confirmation is obtained<br>* Maintain a record of consent (data subject's details, consent modification date, mode of consent modified etc.) | * In each of the newsletter emails/message, provide a link to unsubscribe.<br>* On clicking the link, trigger an email/message to confirm the withdrawal process (click on the link to confirm, share the OTP to confirm)<br>* Complete the process once the confirmation is obtained<br>* Maintain a record of consent (data subject's details, consent withdrawal date, mode of consent withdrawn etc.) | * Mention why the particular information is needed while seeking consent and that the app will not function without the consent<br>* Still provide an option to say no/skip<br>* On providing consent, trigger a confirmation message/mail to the email id/number (click to confirm, share OTP to confirm).<br>* Complete the process once the confirmation is obtained<br>* Maintain a record of consent (data subject's details, information provided to him during consent, date of consent, mode of communication etc.) |

| Action | Want to modify the mode of consent (previously given) | Want to unsubscribe to Email/SMS newsletters | Want to provide consent |
|---|---|---|---|
| **Technology** | * Update the "Consent Database" so that the modification request post the confirmation. | * Update the "Consent Database" so that the modification request post the confirmation. | * Maintain "Consent Database", mentioning what are the data attributes for which consent was sought, what was the purpose mentioned, when was the consent given etc. |
| **Governance** | * In each of the newsletter emails/message, provide a link to change the mode of communication. <br> * On clicking the link, direct the subject to a page to change the mode of communication <br> * Once modified, trigger an email/message to confirm the modification process (click on the link to confirm, share the OTP to confirm) <br> * Complete the process once the confirmation is obtained | * In each of the newsletter emails/message, provide a link to unsubscribe. <br> * On clicking the link, trigger an email/message to confirm the withdrawal process (click on the link to confirm, share the OTP to confirm) <br> * Complete the process once the confirmation is obtained | * Provide a list of such compulsory items in the pop-up window, mentioning the details of the importance of these data. <br> * Provide the option to "Proceed with Consent" or "Go Back" <br> * If user selects "Proceed with Consent", trigger the confirmation process (email/SMS) after the consumer has provided his email id/phone number <br> * Post the confirmation, complete the consent process and update the database |

## Consent Management Check List

| When Asking for Consent | When Recording consent | Managing Consent |
|---|---|---|
| ☐ Have you checked that consent is the most appropriate lawful basis for processing. | ☐ Do you keep a record of when and how consent was obtained from data subject | ☐ Do you regularly review consents taken from data subject to ensure there is alignment between the purpose and processing of data. |
| ☐ Have you ensured that the request for consent is prominent and separate from the terms and conditions. | ☐ Do you keep a record of exactly what was informed to the data subject during capturing consent | ☐ Do you have the mechanism to update consent whenever required |
| ☐ Do you allow data subject to positively opt in. | | ☐ Have you ensured the mechanism to for withdrawing consent. Also do you publicize the information? |
| ☐ Have you ensured that you no-longer use pre-ticked boxes or any other type of implicit consent. | | ☐ Do you ensure that quick action is taken on withdrawals of consent requests by data subjects |
| ☐ Do you use clear, plain language that is easy to understand | | ☐ Do you ensure that there is no penalty associated with withdrawing of consent |
| ☐ Do you specify why data is needed to be captured and what will be done using the same | | |
| ☐ Do you provide individual ('granular') options to consent which is separate for different purposes and different types of processing. | | |
| ☐ Have you informed the data subjects that they have the right to withdraw their consent | | |
| ☐ Do you ensure that data subjects can refuse to consent without detriment. | | |
| ☐ Do you avoid making consent a pre-condition for a service. | | |
| ☐ If we offer online services directly to children, we only seek consent if we have age-verification measures (and parental-consent measures for younger children) in place. | | |
| ☐ For providing services to children, have you ensured proper measures taken to verify the age of children. Also is the parental consent mechanism in place | | |

# Conclusion

The proposed framework provides solution to address data consent challenges from different aspects like Data, Process, Technology, Governance and Legal. It identifies the key changes which needs to be incorporated in the system in order to make it compliant to various data privacy regulations. Also, it highlights the legal aspects which needs to be kept in mind while addressing consent management challenges. The solution has been prepared by analyzing the various key points of the official documents and official guidelines of data privacy regulations across the world

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Pankaj Faujdar is a seasoned management consultant with over 18 years experience in advisory services, engagement management, & business transformation initiatives. His areas of expertise include data governance, data privacy & protection,  large scale program management, business and technology strategy, working with leadership teams and cross geographic team management.  Pankaj is currently involved in helping organizations with their enterprise data strategy, data privacy & advisory services, data vendor evaluations, custom data solutions.

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