

# CONNECTING LEGAL AND MARKETING TEAMS ON CONSENT AND PREFERENCES

In this guide, we review definitions and importance of consent management and preference management, examining their roles from both compliance and marketing perspectives.

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# EXECUTIVE SUMMARY

In today's digital landscape, data privacy regulations and consumer expectations are reshaping how businesses collect, manage, and utilize customer data. This whitepaper explores the critical intersection of legal compliance and marketing effectiveness in the realm of consent and preference management.

By bridging the gap between legal and marketing teams, organizations can not only meet regulatory requirements but also enhance customer trust and drive marketing performance.

We'll delve into the definitions and importance of consent management and preference management, examining their roles from both compliance and marketing perspectives. Additionally, we'll discuss strategies for fostering collaboration between legal and marketing departments to create a unified approach to data privacy and customer engagement.

# INTRODUCTION

The digital era has ushered in unprecedented opportunities for businesses to connect with customers and deliver personalized experiences. However, it has also brought increased scrutiny on data collection practices and a growing demand for consumer privacy protection. As a result, organizations face the dual challenge of complying with complex data privacy regulations while still leveraging customer data to drive marketing initiatives.

This whitepaper aims to:

1. Define consent management and preference management
2. Explain the regulatory landscape driving the need for robust consent management
3. Highlight the marketing benefits of effective preference management
4. Provide strategies for aligning legal and marketing teams in these efforts

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# DEFINING KEY CONCEPTS

## Consent management

Consent management refers to the processes and technologies used to obtain, record, and manage user consent for the collection, use, and sharing of personal data. It ensures that organizations have a legal basis for processing personal information as required by various data protection regulations.

Key aspects of consent management include:

- Obtaining explicit consent from users
- Providing clear and transparent information about data processing activities
- Maintaining records of consent
- Enabling users to withdraw consent easily
- Ensuring that data processing aligns with the given consent

## Preference management

Preference management involves the collection, storage, and application of user preferences regarding communication channels, content types, and frequency of interactions. It goes beyond basic consent by allowing users to specify their desired engagement with a brand.

Key aspects of preference management include:

- Capturing user preferences for different types of communications
- Allowing users to customize their experience across various touchpoints
- Providing mechanisms for users to update their preferences easily
- Ensuring that marketing communications align with stated preferences

In the next section, we'll review a handful of the comprehensive privacy regulations that are driving approaches to consent and opt-out management.

# THE REGULATORY LANDSCAPE: WHY CONSENT MANAGEMENT MATTERS

The need for robust consent management is primarily driven by evolving data privacy regulations across the globe. Some key regulations include the European Union's General Data Protection Regulation (GDPR), Brazil's Lei Geral de Proteção de Dados ([LGPD](#)), U.S. state privacy laws like the California Consumer Privacy Act (CCPA) and California Privacy Rights Act (CPRA).

Most comprehensive privacy regulations share common themes:

- Emphasis on user control over personal data
- The right to withdraw consent or opt-out
- Transparency in data processing practices

For legal teams, ensuring compliance with these regulations is a clear imperative. But they're consequential for marketing stakeholders as well: Failure to properly manage consent can result in significant fines, legal action, and reputational damage.

Implementing a comprehensive consent management system helps organizations:

- Demonstrate compliance with regulatory requirements
- Mitigate legal risks associated with data processing
- Maintain accurate records for auditing purposes
- Respond effectively to user requests regarding their data

## **Legal considerations for email and phone marketing communications**

Understanding the legal requirements for using email addresses and phone numbers in marketing communications is crucial for both legal and marketing teams. These requirements vary by jurisdiction and the type of communication, but generally fall under the umbrella of consent and preference management.

### **Email marketing**

In many jurisdictions, including the European Union (GDPR) and Canada (CASL), explicit opt-in consent is required before sending marketing emails. The United States, under the [CAN-SPAM Act](#), allows for opt-out consent, meaning businesses can send marketing emails until the recipient opts out. All marketing emails must include an easy-to-use unsubscribe mechanism, typically in the form of a link or reply-to address. Unsubscribe requests must be honored promptly, usually within 10 business days.

While not legally required, many organizations implement preference centers to allow recipients to manage their email preferences, reducing the risk of complete opt-outs.

## **Phone marketing (calls and SMS)**

In the United States, the Telephone Consumer Protection Act (TCPA) requires prior express written consent for automated calls or text messages to mobile phones. This consent must be clear and conspicuous, and cannot be a condition of purchase. Likewise, marketers must respect national and state-level Do Not Call registries, refraining from calling numbers listed on these databases.

Similar to email, phone marketing must provide clear opt-out mechanisms, and these requests must be honored promptly. Generally, organizations must maintain records of consent and opt-out requests, often for several years, to demonstrate compliance in case of disputes or regulatory inquiries.

## **Best practices for compliance**

To ensure compliance with these legal requirements while maintaining effective marketing practices, organizations should:

1. Implement a robust consent management system that captures and maintains records of user consent for different communication channels.
2. Regularly update and cleanse marketing databases to remove invalid contacts and respect opt-out requests.
3. Provide clear, user-friendly preference management options that allow customers to specify their communication preferences by channel and content.
4. Conduct regular training for marketing teams on the latest legal requirements and best practices for consent-based marketing.
5. Establish a process for regular audits of marketing practices to ensure ongoing compliance with relevant regulations.
6. Collaborate closely with legal teams when designing new marketing campaigns or entering new jurisdictions to ensure compliance with local laws.

By adhering to these legal requirements and best practices, organizations can build trust with their audience, improve the effectiveness of their marketing efforts, and mitigate the risk of regulatory penalties. This approach aligns with the broader goals of consent and preference management, creating a win-win situation for both the business and its customers.

# THE MARKETING PERSPECTIVE: THE POWER OF PREFERENCE MANAGEMENT

While legal teams focus on compliance, marketing professionals are primarily concerned with engaging customers effectively and driving business growth. Preference management plays a crucial role in achieving these objectives:

1. Enhanced customer experience: By allowing users to specify their preferences, businesses can deliver more relevant and personalized content, leading to improved customer satisfaction and engagement.
2. Increased marketing efficiency: Understanding user preferences enables marketers to target their efforts more effectively, reducing wasted resources on unwanted communications.
3. Improved campaign performance: Tailoring marketing messages based on user preferences typically results in higher open rates, click-through rates, and conversion rates.
4. Building trust and loyalty: Respecting user preferences demonstrates a commitment to data transparency, fostering trust and long-term loyalty.
5. Reduced opt-outs: By giving users granular control over their preferences, businesses can reduce the likelihood of complete opt-outs, maintaining valuable customer relationships.
6. Data quality improvement: Preference management encourages users to provide accurate information about their interests and communication preferences, leading to higher-quality first-party data.

For marketing teams, implementing a robust preference management system is not just about compliance—it's a strategic initiative that drives significant business value.

# BRIDGING THE GAP: ALIGNING LEGAL AND MARKETING EFFORTS

To maximize the benefits of consent and preference management, organizations must foster collaboration between legal and marketing teams.

Here are key strategies for alignment:

1. **Develop a shared understanding:** Organize cross-functional workshops to ensure both teams understand the regulatory requirements and marketing objectives.
2. **Create a unified data strategy:** Develop a comprehensive approach to data collection, storage, and usage that meets both compliance needs and marketing goals.
3. **Implement integrated technology solutions:** Adopt platforms that combine consent management and preference management capabilities, ensuring seamless data flow and consistent user experiences.
4. **Establish clear processes:** Define workflows for obtaining, recording, and honoring user consent and preferences across all touch points.
5. **Collaborate on content creation:** Work together to develop clear, transparent communications about data practices and user choices.
6. **Regular reviews and audits:** Conduct joint reviews of consent and preference management practices to ensure ongoing compliance and effectiveness.
7. **Measure and report on shared KPIs:** Develop metrics that reflect both compliance success and marketing performance improvements.

## Key takeaways for a unified approach to consent and preferences

In today's data-driven business environment, effective consent and preference management is no longer optional—it's a critical component of organizational success. By bridging the gap between legal and marketing teams, businesses can create a unified approach that ensures compliance, enhances customer experiences, and drives marketing performance.

Implementing a comprehensive solution like Universal Consent and Preferences enables organizations to:

- Meet complex regulatory requirements across multiple jurisdictions
- Provide users with granular control over their data and preferences
- Deliver personalized, relevant marketing communications
- Build trust and long-term customer relationships
- Improve marketing efficiency and effectiveness

By fostering collaboration between legal and marketing departments and leveraging advanced consent and preference management tools, businesses can turn data privacy challenges into opportunities for growth and customer engagement.

## About Sourcepoint

Sourcepoint is the practical data privacy software company trusted by the world's most influential brands. Supporting over 30 billion consumer touchpoints per month, Sourcepoint offers enterprise-grade privacy automation for complex, dynamic compliance challenges. Sourcepoint has offices in New York, Berlin, and London.



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