

MINT

Relevant for: Developmental Issues | Topic: Important Aspects of Governance, Transparency & Accountability including Right to Information and Citizen Charter

When the European Union implemented its General Data Protection Regulation (GDPR) in 2018, organisations were forced to revisit the way they tracked, stored, managed, and processed data. Data was segmented into various classes—primarily public data, personal data, and sensitive personal data. And this meant a major rethink for the marketing, communications and business development functions of organisations, given the extra-territorial applicability of GDPR and its focus on user privacy.

To enable a smooth transition, the European Union adopted a systematic approach to the implementation of GDPR. It was preceded by years of work involving extensive documentation and training sessions, which provided clarity on the scope and application of the legislation.

However, things may not be as smooth in India's data privacy transition given that there's not much visibility on the rules that will define the pathway or the technology-readiness and preparedness at marketing and communications departments.

As India readies for the implementation of its Digital Personal Data Protection Act, 2023 (DPDP Act), there's much discussion on aligning core business functions and sales-focused processes with the provisions of the law.

For digital functions focused on the end-consumer, there may be a need to revisit the business models, particularly where the sale, transfer and exchange of data are a core part of revenue-generation, customer targeting or profiling, or sales funnel management.

A related scenario from a privacy perspective is the restrictions on cookies usage, but Google and Apple have implemented this voluntarily. With the DPDP Act, which would involve potentially significant penalties, data practices and standards are no longer a matter of business choice.

In addition, the continuous evolution and tightening of GDPR, the benchmark for data privacy regulation, points to standards and compliances becoming more stringent over time.

Take, for instance, stakeholder data governance.

Data governance is an extension of data privacy or data protection (as is referred to in India's much more liberal scheme of things when compared to GDPR standards). With environmental, social and governance (ESG) standards becoming top priority for businesses, stakeholder data governance is also expected to be a significant requirement.

In the digital age, with digitalisation of businesses, the universe of such stakeholders expands beyond investors and customers to include financiers, media and even academia.

So far, outside of customer relationship management (CRM) and the sales funnel, marketing and communications functions have been far removed from the challenges of data audits and legal compliances.

Even for CRM-type data, the focus is on quality and accuracy of data rather than on sources, legitimacy and legality in the hands of an organisation.

In India, most marketing and communications data, specifically stakeholder-related data, has been primarily sourced and stored manually, with the additional baggage of historical data and archives.

This may include personal data such as influencer records, media lists, beneficiary records (participants in initiatives, contests, etc.), people associated with corporate social responsibility initiatives (including health and family records), and details from programmes and past partners.

The law applies to all forms of data, whether collected online or gathered offline and later digitised, and even when data processing is done outside for offering goods and services in India.

Also, the law rests on the pillars of consent, and data can be processed only on the basis of the consent of an individual and for allowed or legal purposes.

While there is a breather where voluntarily provided data is concerned, arguably there may be records to prove the same if a situation arises.

Also, as Data Fiduciaries, organisations bear the responsibility of ensuring the safety of personal data. The law's provisions require specific compliances related to marketing and especially data of minors.

Marketing and communications teams would have to go through the arduous task of cleaning and streamlining their data, which is bound to be both time- and resource-consuming.

While in the EU, considerable support and training was extended, Indian companies may not have that luxury. Whereas multinational companies may benefit from the experience of their peers in Europe, particularly through adoptions of IT tools that may have been implemented in the EU.

Things become slightly more complicated for service aggregators such as public relations agencies and direct marketing agencies. The Indian law specifies restrictions on how long data can be stored, and that data can be used only for purposes for which consent is obtained.

This implies that a PR agency that uses the same data for multiple clients may need to adopt a subscription-based approach for distributing press releases or follow the Chinese wall model for each client, which may pose a significant challenge and entail huge costs.

A CRM-type approach to stakeholder data management appears inevitable, and will require companies, especially those with large historical datasets and manual records, to undertake a massive cleanup.

While it may be painful, in the long-term, digitisation of this domain is likely to benefit organisations by helping reduce business and compliance risks, enhance data governance, and adopt process efficiencies through automation.

However, given the complexity, the earlier companies start working in this direction the more time they will have to transform, rather than rush into painful last-minute transitions.

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