
CONSENT FATIGUE AND THE LAW: DOES ANYONE ACTUALLY READ WHAT THEY AGREE TO?

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ABSTRACT

This legal blog explains the scenario of today's world, where people ignore whom they are giving their consent to and under what conditions. This paper also explores the expanding disconnect between the legal fiction of "informed consent" and the digital reality of "consent fatigue" within the privacy frameworks. It explains how modern digital interfaces manipulate people to secure their consent without real comprehension or choice on their part. It also highlights some of the most famous cases and surveys, such as Jonathan Obar and Anne Oeldorf-Hirsch's research and Deloitte surveys in which they examined how people are accepting cookies online and providing consent without reading. It provides the knowledge of how digital consent works online, specifically via clickwrap agreements and browsewrap agreements for having user's consent. Further, there are many drawbacks provided via the research on digital consent, so the framework should focus on and work on it. It explains how users' consent is just a legal assent and not informed consent anymore, due to lengthy legal and technical policies by websites or apps, making it difficult for an average person to give clear and genuine consent. And finally, the Author, gives his ideas and required changes to be done in the digital consent framework for users' privacy protection and companies' liabilities for any data and privacy breach; followed by the conclusion, which overall dictates the whole scenario of the topic "Consent Fatigue and the Law: Does Anyone Actually Read What They Agree To?"

Key Words: - Consent, Legal, Informed Consent, Digital, Fatigue, Privacy, Secure, Agreement, Assent, Technical.

A closer look at whether consent-based privacy law is solving a real problem, or just dressing up a ritual nobody engages with

Every day, most of us click "I agree" without even reading a single word of what we're agreeing to. Whenever we visit an app or website, it asks for "accept all cookies", "I agree", and many more, and we just scroll down all the details to the bottom and click them to move to the next step. So, is it formal consent or just exhaustion?

Today, all the major data protection laws and acts like GDPR (General Data Protection Regulation) (Art. 6(1)(a))¹ and DPDPA (Digital Personal Data Protection Act, 2023) (ss. 6–7)² are solely based on the consent of the customer or user given to the company. These laws say that if you say yes, your data can be used for the purposes mentioned in the consent agreement, even if you didn't read it. So, we can say that consent is the central pillar of lawful data processing.

| THE CONSENT LOOP |

| Information Overload —► Consent Fatigue —► Blind Consent |

CONSENT FATIGUE

The term Consent fatigue actually means the tendency of a person to give consent even without reading the whole agreement due to exhaustion from too many consent prompts specially online, like apps, websites, etc.

- **Ever wondered why people click without reading?**

Every person in their daily routine encounters these lengthy and technically consent agreements, which makes it difficult for an ordinary person to read and understand them completely. Therefore, people have adapted the way that whenever they see a consent agreement, they just

¹"Art.6 GDPR- Lawfulness of processing," *Intersoft Consulting*, available at: <https://gdpr-info.eu/art-6-gdpr/> (Visited on August 16, 2026).

²"Digital Personal Data Protection Act, 2023: Section 6," *DPDPA.com*, available at: <https://www.dpdpa.com/dpdpa2023/chapter-2/section6.html> (Visited on August 16, 2026).

scroll down and click to move ahead.

- **The Reality of Consent: What Research Reveals**

There was a fake network built by two researchers named Jonathan Obar and Anne Oeldorf-Hirsch³ for an experiment on digital consent, which included a privacy policy and terms of service that would take barely 45 minutes to read. What they found in the results was majority of the participants didn't read the document and hit the "Quick join", and nearly all of them skipped a clause stating to agree to hand over their firstborn child. This research shocked the world and gave everyone a chance to preview everything before going ahead.

This is not the only case; a Deloitte company survey⁴ found that a lot of consumers agree to the terms and conditions without even reading a single word, higher rate with the people of age 18-34 years.

And researchers have found that if the average person reads and understands the privacy policy and terms and conditions, it would take dozens of working days to completely read all the encountered online consent or cookie agreements.

LEGAL FRAMEWORK OF THE DIGITAL CONSENT

In this digital era, an online contract is basically formed through clickwrap and browsewrap agreements; these are the mechanisms used by companies or businesses to obtain the consent and acceptance of terms and conditions before providing services.

Courts in many jurisdictions generally accept the enforceability of these agreements provided that certain legal requirements are met.

Clickwrap Agreement: This is an online contract which asks people to obtain their consent by

³Jonathan A. Obar and Anne Oeldorf-Hirsch, "The biggest lie on the Internet: ignoring the privacy policies and terms of service policies of social networking services," 23(1) *Information, Communication & Society* 128-147 (2020), available at: <https://www.tandfonline.com/doi/abs/10.1080/1369118X.2018.1486870> (last visited on August 16, 2026).

⁴Caroline Cakebread, "You're not alone, no one reads terms of service agreements," *Business Insider*, available at: <https://www.businessinsider.com/deloitte-study-91-percent-agree-terms-of-service-without-reading-2017-11> (last visited on August 16, 2026).

clicking on the “I Agree” or “Agree” button after being provided with the terms and conditions.

This is generally considered a stronger agreement as compared to other online agreements because users have to actively indicate their consent in it.

Browsewrap Agreement: This is also an online contract, but in this, people don’t need to click anywhere to give consent. Instead, the website states that the continued browsing or use of the website will be considered as the acceptance of the terms and conditions of the website itself.

Therefore, browsewrap agreements face more judicial scrutiny than clickwrap agreements.

DRAWBACKS OF DIGITAL LAW FOR CONSENT

The most eye-catching drawbacks found in today’s consent-based mechanism are;

1. Nowadays, consent has become a basic routine for people rather than an informed one.
2. One of the major problems is that modern privacy policies are so lengthy and include tough legal and technical terms, which make it difficult for an average person to understand them and provide a complete informed consent. Therefore, information overload prevents people from genuine understanding.
3. Excessive requests for consent from various websites, apps, and other digital platforms lead the public to give automatic acceptance of terms and conditions due to consent fatigue.
4. Individual autonomy has been hindered by the “take-it-or-leave-it” approach of various websites where they give binary options like “Accept All” or “Reject All”. In this, consent appears genuine, but the users don’t have any alternative if they want to use the services.
5. Large companies have more legal, technical, and informational resources compared to normal users of their websites or apps, which creates asymmetry between users and companies, as users might have disadvantages in the consent process.
6. Today’s data protection regime mainly depends on individuals reading all the privacy

policies they encounter, which is unrealistic.

7. Many times, websites take broad consent from users under a single consent and use the data for more than one specific purpose.

THE FUNDAMENTAL GAP BETWEEN MEANINGFUL CONSENT AND LEGAL ASSENT

The core issue in the present consent-based privacy framework is that they often confuse legal assent with meaningful consent.⁵

When the user clicks the consent button, it might create contractual acceptance, but it doesn't establish that the user understood the privacy policy, consented to the risks involved in data processing, allowed further future use of the given data, or even gave genuine and informed consent.

The consent mechanism does the legal formalities but lacks the exercise of the protection of individuals' informational autonomy.

- **What are the changes and implications required?**

The changes and implications required to improve the consent-based mechanism are;

1. There should be a CCS (Consent Confidence Score) which will ensure that the user understood the privacy policy before giving consent, and for this, there will be some questionnaires to be answered correctly to rate the level of understanding of the user.
2. There should be an AI Assistant, which will simplify the technical and lengthy privacy policies for the user to be better understood. This AI assistant will work as a Digital Privacy Lawyer for the users.
3. The consent given by the user should expire if there are certain changes in the

⁵Meagan Mitchell "Understanding Assent vs. Consent in Social Work," *Agent of Change*, available at: <https://agentsofchangeprep.com/blog/understanding-assent-vs-consent-in-social-work/> (last visited on August 16, 2026).

agreement or if the purpose is accomplished.

4. There should be single-page privacy policies for engaging more people, or might be one-word explainers like food labels such as “Advertisement -YES”, “Protein – 5gm”, etc.
5. There should be a Consent Risk Indicator, showing how much risk there would be if the user proceeds ahead.
 - Low Risk
 - Medium Risk
 - High Risk
6. Every site the user enters should clearly display that what was the breach history, compliant records, and compliance audits, and there must be transparency.
7. There should be a “Consent Manager”, where the user can access all the details of their data used by which companies, apps, websites, etc.

BEYOND THE CLICK: RETHINKING CONSENT IN THE DIGITAL AGE

As it is comprehended, it's clear that consent is the cornerstone of data protection, privacy, individuals' autonomy, and control over personal data. However, today's ecosystem demonstrates the disconnect between legal theory and practical experience in data protection and individuals' privacy. The term consent fatigue is very vogue nowadays, and it demonstrates that merely clicking “I agree” does not mean that the user has read, understood, and consciously accepted the use of their personal data. Instead, consent has become a routine step of necessity rather than an informed choice.

The challenge is not that individuals fail to read the privacy policies but the consent-based mechanism putting an unrealistic burden on the general public for reading and understanding the lengthy and technical privacy policies. Therefore, legal compliance with consent should not be measured only by obtaining it, but by meaningful understanding and genuine control of the

individual.

At the end, the future of privacy law should not revolve around grabbing more clicks, but building trust, providing transparency, and securing individuals' autonomy. As technology is evolving so fast, the measure of effective data protection and privacy governance should not be how easily consent is obtained, but how it protects individuals' data, dignity, and privacy.