

Confidently Keeping Customer Data Safe & Secure

Lance Formwalt
& Todd Janzen

January 5-6, 2016



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Overview

- Changing products/services, customer expectations and law create need for focus on legal relationships and policies
 - Grower's Information Services Cooperative (www.gisc.coop)
 - Farm Bureau Policy on Data
 - Open Ag Data Alliance
- Manufacturer pressure
- Legal Obligations



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Topics Covered

- Data Security Basics
- Data Security Plans
 - Documentation
 - Implementation
- Limiting Liability
- Insurance



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What Are We Trying to Protect?

- Personal Information
 - Customer
 - Employee
- Business Information
 - Customer
 - Dealership



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Why Are We Doing This?

- Customer Expectations
- Manufacturer Expectations
- Legal Obligations
 - Contracts with Finance Providers/Manufacturers
 - State Data Breach Notification Laws
 - FTC Enforcement – Wyndham Worldwide



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What Are We Trying to Prevent?

- Common Data Breaches
 - Lost/stolen laptop
 - Employee theft
 - Dumpster diving
 - Copy machine
 - Service provider access to information
 - Cyber attack



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What Standard Do We Have to Meet?

- No official federal rules or regulations
- “Reasonableness” Standard
 - Sensitivity and volume of information
 - Size and complexity of data operations
 - Cost
- Don’t over-promise



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What Can I Do?

- Adopt Appropriate Policies and Procedures
 - Privacy and Data Policy
 - Information Security Program
- Training and Implementation



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Data Security Plans - Documentation

- Privacy Policy
- Information Security Program
- Third Party Vendors
- Customers
- Employees



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Implementation and Training

- Implementation Process
- Employee Education



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Limiting Liability

- Increased exposure through product/service offerings
- Consistent contract terms critical
- Limit exposure by capping liability in contract



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Insurance

- Data Compromise Insurance
- Precision Ag Liability Insurance



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Resources

- Dealer Data Security Program
 - www.agridocshq.com
 - Contact Western Equipment Dealers Association at 800-762-5616 or oholcombe@westerneda.com



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Up Next ...

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Overview

- How the law views farm data
- Drafting tips for dealers
- Bringing transparency to farm data contracts



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What is “Farm Data”?

- Different Buckets of Information
 1. Personally Identifiable Information
 2. Agronomic Data
 3. Machine Data
 4. Production Data



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How the law views farm data

- Other groups have legal protections
 - Financial
 - Medical
 - Personal information



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How the law views farm data

- Intellectual property protections
 - Patents
 - Trademarks
 - Copyrights
 - Trade Secrets



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How the law views farm data

- Uniform Trade Secrets Act

A formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives economic value from not being generally known or readily ascertainable and

(ii) efforts are made to maintain its secrecy.



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Tips for Dealers

If Farm Data is a really a trade secret . . . then you must treat it that way

What does this mean?



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Service Agreements

1. Explain that farmer owns data
(use, transfer, storage, destruction)
2. Explain who has access to data
3. Protect farm data secrecy
4. Make sure dealer employees understand dealer and manufacturer privacy policies



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Dealer Tips

1. Be transparent
2. Obtain consent
3. Provide adequate notice



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Privacy and Security Principles for Farm Data

- Over 30 ag technology providers signed onto the principles
 - John Deere
 - CNH
 - AGCO



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Farm Data Principles

- Ownership
 - Farmers own their data.
 - If other persons have an interest in data, farmers and other persons must agree on ownership
 - The “owner” should contract with ATP



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Farm Data Principles

- Portability
 - Farmers should be able to retrieve data
 - Farmers should be able to delete data



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Bringing Transparency to Ag Data Contracts

- Ag Data Transparency Evaluator
 - Ag Technology Providers must answer 10 questions
 - Answers are reviewed by independent third party
 - Answers are posted on website (American Farm Bureau)



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Ag Data Transparency Evaluator

1. What categories of data does the product collect?
2. Is data sold, transferred or shared to a third party?
3. Does the farmer have the ability to delete his data?
4. If the company is sold, what happens to the farmer's data?



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Ag Data Transparency Evaluator

- Governing Structure
 - Board of Directors
 - Farm Commodity Groups (corn, soy, wheat, sorghum)
 - Farmer Organizations (AFBF, NFU)
 - Equipment Manufacturers (Deere, CNH, AGCO)
 - ATP Industry (small, medium, large)



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Ag Data Transparency Evaluator

Concluding Thoughts

Agriculture's Golden Opportunity



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