HAWKSOFT

3 Questions to Ask Technology Partners to Clarify Who Owns Your Data

In the insurance industry, client data goes through many different touchpoints, and ownership of it has long been caught in a tug-of-war between multiple stakeholders: the client, whose information it is; the agency, who collects it; the carrier, who produces policy data; the management system, which stores it; and other third-party technology vendors, who access it. The agent is the main gatekeeper of client data, but at the end of the day, is your agency maintaining ownership over your data or surrendering it to the technology systems that house it?

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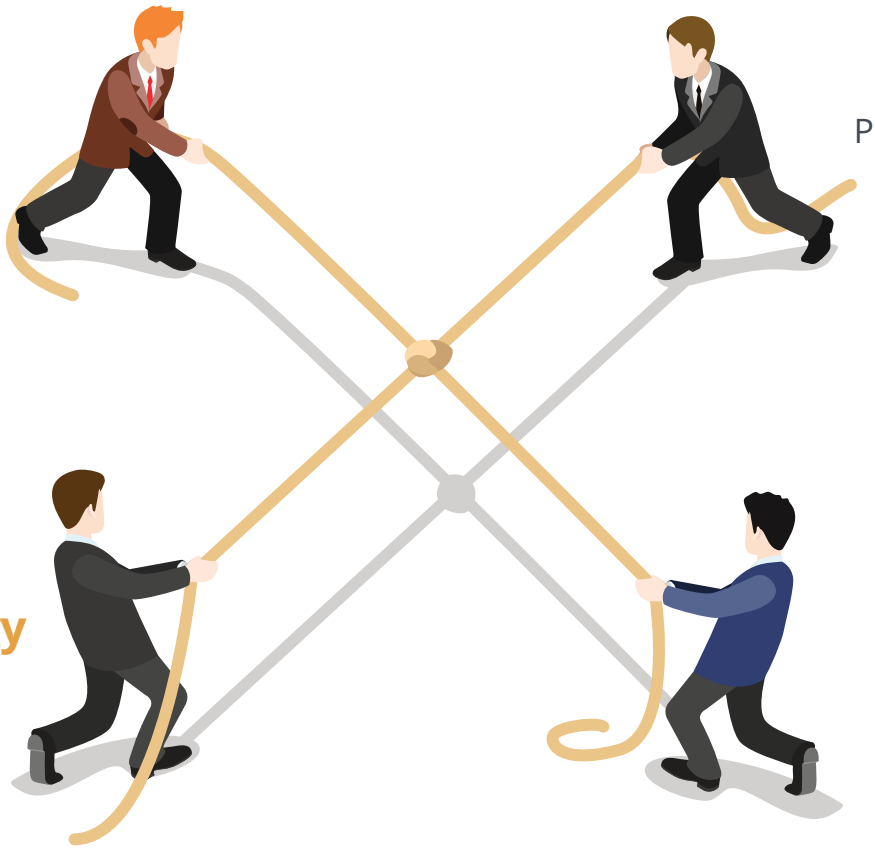
The data ownership tug-of-war

Client data is one of the most valuable assets an agency has, and they often don't realize they're sharing or even signing away ownership of it to the technology vendors they use. Many of the largest agency management systems and technology providers are being bought out or given investment capital by private equity and big data companies, who spend billions to acquire the aggregated data of the agencies that use them.

So what can your agency do to make sure the technology providers whose tools you employ aren't taking advantage of the data you've collected or obfuscating clarity on who owns that data? It's your duty to advocate for your agency's ownership of data. **"Your agency's data belongs to you until you grant that ownership to another party,"** says Sean Hawkins, Chief Product Officer of HawkSoft agency management system. "Make sure you choose partners you trust to keep your data safe and to keep your data yours."



What agents are saying

Data is extremely valuable to understanding the consumer, and agents—the only people who have relationships with the consumer—are giving that away to our vendors so that they can turn it into revenue. Agents are being farmed by many of these monolithic giants in the industry that now lock us into long contracts and then farm us for our data.

— Seth Zaremba, Zinc Insurance (Insurance Journal)

It is critically important as we move forward with data exchange between agent and carrier that we protect our client data and keep it from being manipulated by other sources, which many carriers and Insurtechs are doing right now. Client data is being collected by these parties and getting sold for profit, and not for the gain of our customers.

— Mike Stansbury, Elite Insurance Solutions

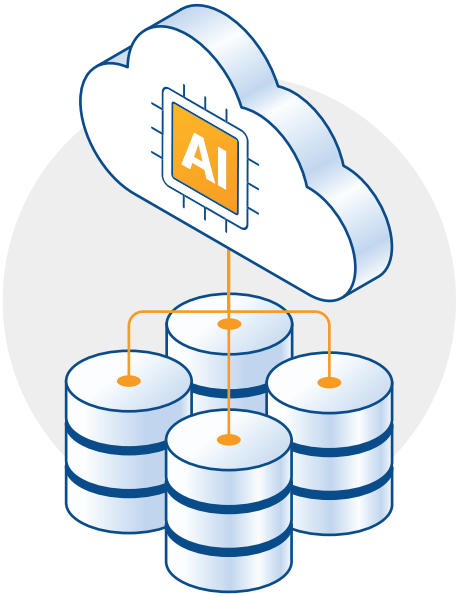
In the next three to five years, how clean your data is within your book of business will be factored into what you as an agency owner can expect to be paid for your agency.

— Scott Howell, The Insurance Guys Podcast

An agency's client data is their electronic filing cabinet containing all the relationships, information, policy and personal details nurtured over the years. This data holds value and contains intellectual property—the agent puts a plan together for the client based on their knowledge and expertise, much like a doctor would diagnose a patient and prescribe the best solution. Another entity taking ownership of an agency's data is effectively stealing the prescription.

— Pat Lamb, Select Insurance Service

Big Business in Big Data



$3.6 billion

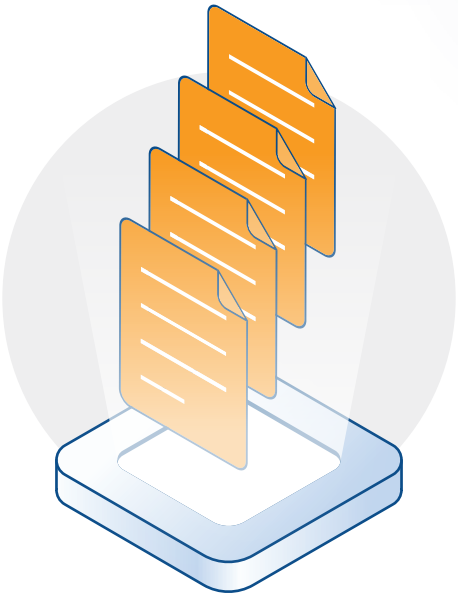
is expected to be invested in big data by insurance companies by the end of 2021.

(SNS Telecom & IT)

2.5 quintillion

bytes of data are currently generated every day.

(Forbes)



90%

of all the world's data was generated in the last five years.

(Forbes)

3 questions to ask vendors about your data

How can you tell whether the technology vendors you work with allow your agency to truly own and control the use of your data? There are three important things you should ask when considering an agency management system or any other technology platform that will house or access your client data.

1 Does the agreement give the vendor ownership of your agency data?

Most vendors will require you to either sign a contract or licensing agreement, or accept their terms and conditions, in order to use their product. **Before accepting any agreement with a vendor, make sure you understand whether the vendor is entitled to share, sell, or otherwise use your agency's data without your consent.** For example, HawkSoft makes it clear that agencies own their data in our Agreement Terms & Conditions, which state that "Client Data remains the sole ownership of the Customer."

If the contract language is unclear or doesn't mention data ownership, it could be a red flag that the vendor isn't willing to grant the agency ownership over their data. Ask the vendor for clarification and make sure that you have their stance in writing before accepting an agreement. If the vendor's views on data ownership don't mesh with yours, it may be time to move on.

Another thing to consider at this stage is who owns or has a stake in the company, and what their motivations could be. If the company has outside investors or has changed ownership recently or many times in the past, it's possible the scope of the product and the agreement may change in the future as well.

“It’s important for your agency to feel comfortable that you can place your trust in a vendor not only at the moment you sign the agreement, but well into the future,” says HawkSoft’s Chief Marketing Officer, Rushang Shah. “Vendors that are committed to remaining privately owned, like HawkSoft for example, wield the advantage of having fewer stakeholders to answer to besides the agent, so they can focus purely on what’s best for the agent rather than making a quick return on investment.”

Sample contract language

If a vendor or carrier contract doesn’t clearly address data ownership, here’s an example of language you can request they add, provided by the Big I Office of the General Counsel.

For vendor contracts:

At any time during this Agreement or after its termination, Vendor will destroy or return to Client all data, information and other materials of Client within Vendor's possession, custody or control upon Client's request. Vendor will deliver such items to the Client in a timely manner and in a mutually agreeable format. Vendor acknowledges that Client's data, information and other materials shall remain the exclusive property of Client and shall only be used consistent with delivering the services set forth in this Agreement.

For appointment contracts:

The use and control of the Agent's expirations, including those on direct billed business, the records thereof, and the Agent's work product and data relating thereto, shall remain in the undisputed possession and sole ownership of the Agent. The Company shall not use its records or the Agent's expirations in any marketing method for the sale, service, or renewal of any form of insurance coverage or other product, nor shall the Company refer or communicate the Agent's expirations, including records, work product or data relating thereto, to any other agent or broker, or affiliate or company, without prior express written permission from the Agent.

Legal precedent on data ownership

Courts have consistently ruled that, unless a contract states otherwise, the independent agency owns their client and policy data. Instances of this date all the way back to the seminal Yonkers Case in 1904, when an independent insurance agent challenged a lower court decision that prevented him from selling his book of business to another agent and required him to surrender his expiration register (policy records) to the insurance company.

1904 National Fire Insurance Company v. Sullard (the "Yonkers Case")

"Our opinion is that the plaintiff [insurance company] was not the owner of the expiration register, nor entitled to its possession and hence not entitled to enjoin the defendant [agent] from the use in any lawful manner of the information derived from the expiration register."

1985 In re Estate of Corning

"It is the custom and practice in the insurance field that, in the absence of a contract to the contrary, the independent insurance agent owns the expirations at the termination of his agency. The practice is a protection of the work product of the individual agent and represents a valuable asset in the nature of goodwill."

2013 Schatzki v. Weiser Capital Mgmt., LLC

"Absent a contract to the contrary, an independent insurance agent's customer information belongs to [the] agent" in addressing ownership of electronic client database.

Source: Scott Kneeland & Eric Lipton, Big I

2 Is your data held hostage if you leave the vendor?

True ownership of data means it's not trapped in one system—**an agency should be free to change systems if necessary for their business.** But technology vendors often make it difficult for agencies to leave by locking them into long-term contracts and making it costly and time-consuming for them to get a copy of their own data. If this sounds like your data is essentially being held digitally hostage—it is.

Insurance industry thought leader Steve Anderson shared two important things for agencies to pay attention to in Insurance Journal. The first was how much notice an agency is required to give before leaving: "A lot of times vendors require a 60- or 90-day notice of leaving. That's one issue that I highlight for agencies all the time." The second was how much the vendor charges for providing a copy of your agency data. He warned that vendors often charge thousands of dollars in data extraction fees and take months to provide the agency with their own data when they leave—something that can make agencies feel they are being asked to buy back their owndata.

The problems don't end there. If the new vendor can't completely convert all the data from the previous system to the new one, agencies may lose valuable data. **"Agencies lose the value of their data if they cannot control it,"** Chris Burand of Burand & Associates said to Insurance Journal, "and in many cases, the agency can lose value because its data becomes unusable."

Don't be seduced by vendors that seem to have incredibly low rates, but hit agencies with unreasonably high charges to move their data into or out of the system. "Agencies are sometimes blinded by a low introductory offer for a management system," says HawkSoft's VP of Sales, Paul Moyes. "What they may not be taking into account is how costly that decision can become when they are bringing data with them, or when they want to change systems down the road."

Don't play games with your agency's data

There's a time and place for games—and it's not when you're moving your agency data between systems. HawkSoft lets you be the custodian of your client data, even if you leave our system.

- **NO** long waits or exorbitant fees to convert data into or out of HawkSoft
- **NO** HawkSoft data is sold to partners, affiliates, or other parties
- **NO** long-term contracts or early termination fees if you decide to leave

Data autonomy checklist

Make sure you understand and are satisfied with the answers to each of these questions before signing an agreement with a vendor.

Question	Answer
Does the agreement specify a minimum term of use?	*Answer:* _____ *HawkSoft: No minimum-length contracts or early termination fees.*
How much notice are you required to give before leaving?	*Answer:* _____ *HawkSoft: 30 days.*
Can you retrieve a backup of your data in the system at any time?	*Answer:* _____ *HawkSoft: 30 days.*
How much does the vendor charge for providing a copy of your data if you leave, and how quickly will they provide it?	*Answer:* _____ *HawkSoft: Receive a copy of your data for free within 3 business days of cancellation or request.*
What format is the data provided in, and is it easy to manipulate or convert to another system?	*Answer:* _____ *HawkSoft: Your data is provided as a read-only copy of your HawkSoft database so you can always view your data as it looks in the system. You can also request a copy in SQL format (easy to convert) for a flat $250 conversion fee.*
If you are bringing past data to a new vendor, how much will they charge to convert the data, and how long will it take?	*Answer:* _____ *HawkSoft: Cost depends on the format and amount of data. The data conversion process includes an initial and a final conversion, with the agency's review in between. Both are typically completed within one business day of receiving the data.*

3 Does the vendor allow you to integrate your data with other platforms?

Another important part of data ownership is the ability to connect your client data with other systems that help you run your business, such as marketing automation, review management, raters, and more. Be wary of vendors that say they can meet every need for your agency. No single system does everything an agency needs, because every agency has unique needs. Rather than trying to find one system that "has it all," **focus on systems that behave like platforms: they specialize in what they do best and integrate with other systems** to allow you to extend and customize the platform.

One of the best ways technology vendors can facilitate access to client data for other platforms is through Application Programming Interface (API) integrations. By allowing agencies to integrate and use client data with other technology platforms, vendors can show they are committed to meeting all the needs of an agency—not just the ones solved by their product.

Torey Maerz, co-founder and CEO of Rocket Referrals, points out that this level of connectivity differentiates the agency as well. **"Agents who use tools with open connectivity have an advantage,"** he said to HawkSoft. "They can pick the right set of systems for their business to create the best customer experiences—a key differentiator in today's market."

Rocket Referrals has been a member of HawkSoft's Partner API program since August 2020. "It's inspiring to see the collaboration happening in our industry," Maerz said. "I'm excited to see more and more API integrations offered among various systems as we continue to innovate and build even better tools for agents."

Why use APIs (or, why your waiter doesn't cook your meal)

Todd Sorrel of ePayPolicy uses an interesting metaphor for API integrations in a piece he wrote for Rough Notes:

> *"A number of leading-edge insurtech companies offer amazing products for independent agents. Perhaps you've tried a few. And through them, you may have experienced the boost that hyper-focused technology can bring to your firm's productivity and your bottom line… But inevitably, the question comes up: 'Wouldn't it be great if this product could also do such-and-such?'*
>
> *Frankly, I believe the answer to that question is 'no'—and for good reason. What makes these companies and their products so great is that they specialize in a single service or capability for insurance agencies, and they do it really, really well. And that's what you want—that and API integrations. Think about it like this:* ***When you go out to dinner, you don't want the same person who valets your car to seat you, serve and bus your table, and cook your meal.*** *They could, perhaps, but they don't. Again, for good reason. Each of these individuals plays a specialized role in your dining experience.*
>
> ***The same holds true with your agency technology stack****… Using APIs allows agencies to automate functions staff members may have been doing manually and remove the data silos around the agency. APIs can increase your efficiency, accuracy, and control. That means your agents and staff can write and service more business."*

Remember that the quality of a vendor's API partners is just as important as the quantity offered, since the partner will be accessing your policyholders' data too once enabled. **Look for vendors who thoroughly vet their partners and hold them accountable to data practices that are fair to the agency;** you want a vendor that goes to bat for your agency.

HawkSoft's Director of Partner Integrations, Kenny Hendricks, drives the company's Partner API program, which currently offers fifteen vetted API integrations and is in talks with over 40 more platforms. "The single most important aspect of my job is ensuring we partner with vendors that we can trust and who are committed to respecting an agency's ownership of their data as much as we do," Kenny says. "Agencies should take the same care in vetting vendors themselves."

Data is value

We often talk about partnering with companies who respect or share the agency's values. Data ownership is one area where it's imperative for those values to align. Finding like-minded technology partners to handle your agency's data can mean the difference between maintaining ownership of one of your agency's most valuable assets, and giving it away for free.

Learn why HawkSoft is passionate about pushing the IA channel forward

Learn more about HawkSoft's story and why we're so passionate about issues, like data ownership, that are crucial to independent agencies.

Learn More

Resources

- 3 Questions to Ask Technology Vendors about Your Client Data (HawkSoft, September 2020).
- The Agency Tech Connection (Insurance Journal, October 2020).
- API Integrations: Finding the Point Where Agency Tech Success Comes Together (Rough Notes, April 2020).
- Big Data in the Insurance Industry: 2018 – 2030 – Opportunities, Challenges, Strategies & Forecasts (SNS Telecom & IT, August 2018).
- The Elite Client Experience: Tips from the 2019 Rough Notes Agency of the Year (HawkSoft, May 2020).
- HawkSoft's Partner API: an Update from the Road (HawkSoft, June 2020).
- How Much Data Do We Create Every Day? (Forbes, May 2018).
- Independent Agents Own Their Data but Contract Language Is Still Important (Big I, March 2021).
- It's Clear Insurance Agency Data Is Valuable. Who Owns It May Not Be So Clear (Insurance Journal, August 2020).

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