



*LEGISLATIVE &  
GOVERNMENT  
COMMITTEE*

- CIC ATLANTA
- APRIL 2010



## Committee Members

|                |   |
|----------------|---|
| Stephen Regan  | REGAN STRATEGIES                          |
| Janet Chaney   | CAVE CREEK DEVELOPMENT                    |
| Karen Fierst   | KERENOR CONSULANTS                        |
| Chrisa Hickey  | SCENE GENESIS                             |
| George Laurie  | GREENLEAF                                 |
| Tony Passwater | AEII                                      |
| Bob Smith      | STORM APPRAISAL &<br>MANAGEMENT SERVICES, |
| Rick Tuuri     | AUDATEX, A SOLERA COMPANY                 |



# Massachusetts Data Privacy Law

- ◆ Considered the Strictest in the Country
- ◆ New Regulation (201 CMR 17.00) went into effect on March 1, 2010



# Privacy and Its Effect on the Collision Repair Industry

- ◆ What the Privacy Law Covers
- ◆ How We Can Comply (BMS Adoption)
- ◆ Current Data Usage Policies
- ◆ The Fundamental Question: Who Owns The Data?
- ◆ Individuals Rights

# Consumer Privacy

## **Personal information:**

Massachusetts resident's first name and last name or first initial and last name in combination with any one or more of the following data elements that relate to such resident:

- (a) Social Security number;
- (b) Driver's license number or state-issued identification card number;
- (c) Financial account number, or credit or debit card number
  - with or without any required security code, access code, personal identification number or password, that would permit access to a resident's financial account; provided ...

However, that "Personal information" shall not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public.

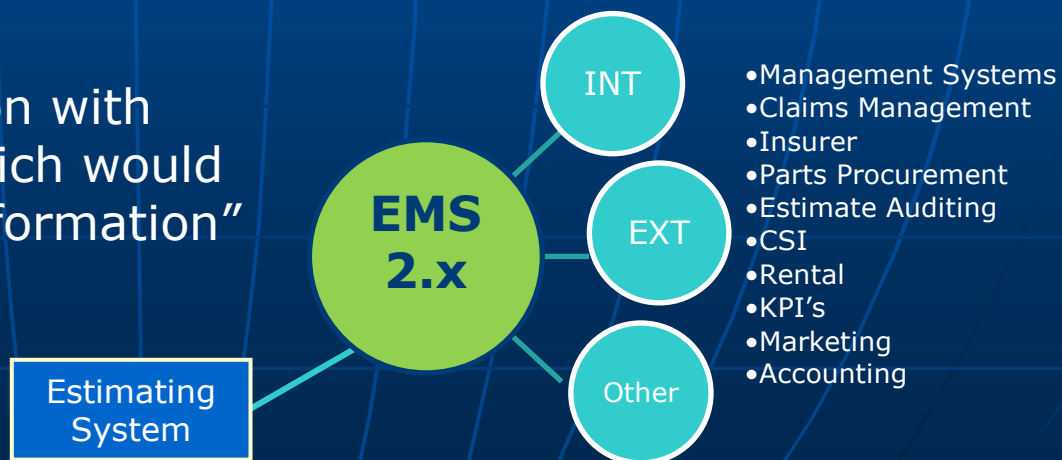
# Current State

**Personal information\*** is being stored by local and SaaS estimating systems and being transmitted to 3<sup>rd</sup> party business partners, and used for importing into shop management and accounting systems.

EMS Standard 2.x unsecured data export being captured by many 3<sup>rd</sup> parties providing a variety of business services without approval of vehicle owner, or in some cases of repair facility.

Unnecessary personal\* and business data information is being shared that is not required to perform the function or services ...

\* However, not in combination with other listed information which would constitute the "Personal Information" definition.



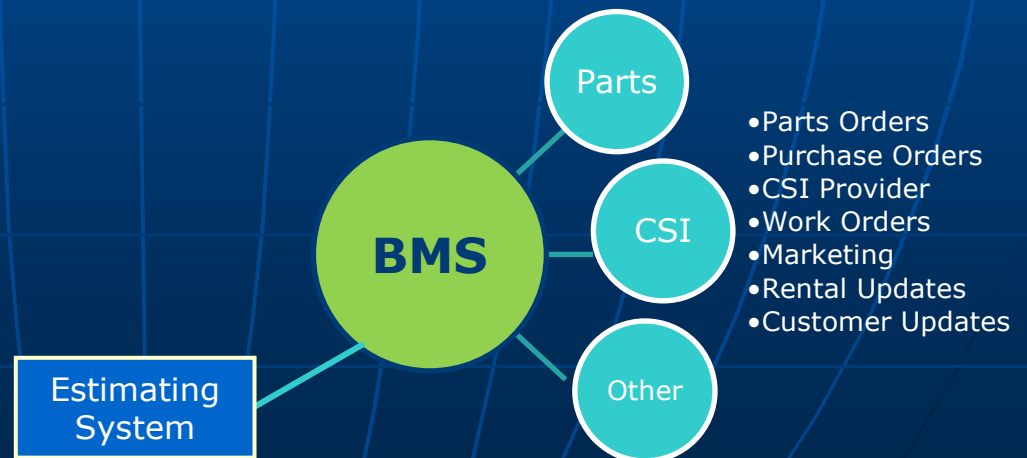
# Current Need

CIECA BMS Standard adopted that provides better security of data usage and limits information transmitted based on functionality needs...

Examples:

CSI file does not need estimate line details

Parts Orders do not need vehicle owner name/address, etc



# Consumer Privacy verses Business Data Privacy





# Privacy Expectation

## There are Two Types of Expectations of Privacy:

- 1) A subjective expectation of privacy is an opinion of a person that a certain place or situation is private.

These obviously vary greatly from person to person.

- 2) An objective, legitimate or reasonable expectation of privacy is an expectation of privacy generally recognized by society.



# Business Data Privacy

## Typically not included in current Privacy Regulations

Determined typically by agreements between business and providers of product or services.

Providers typically provide usage details in Terms of Agreement and/or Data Usage Policies.

Much of policy surrounds the options for communicating to the user and the restrictions of sharing your e-mail and contact information with others.



# Current Data Policies

XXXX will treat Client Property as confidential, except as specifically provided in this Agreement. Notwithstanding the above, Client shall allow XXXX to use Client Property in the compilation of statistics, which statistics shall be the property of XXXX. XXXX shall have the sole right to use, modify, sell and distribute such statistics. XXXX reserves the right and hereby authorized by Client, to use and distribute all data inputted by Client into, or derived from, the XXXX Service that does not constitute Client Property.

“Client Property” shall mean non-vehicle related data that is inputted by Client and/or Client End User and submitted via the XXXX Service and which specifically identifies an insured, a claimant, the Client, and/or a Client End User.

YYYY uses the data in an ordinary course of its business (for example, transmitting the data to insurance companies for processing claims). In that context, YYYY may provide the data to third parties, in de-identified, aggregated fashion. For example, YYYY may aggregate various data points for industry reporting and analysis but will de-identify the data so repair facilities and their customers can not be identified.

# Current Data Policies

When it comes to data about your specific operations and business practices, ZZZZ believes that you, and only you, should decide who will receive this information. ZZZZ will keep all information which specifically identifies any of our customers strictly confidential and will only share this data with your intended business partners.

As a trusted business partner to collision repair facilities and insurance companies, ZZZZ creates, receives and transmits a tremendous amount of data related to the collision repair process and we have developed an expertise in understanding and analyzing that data. As an information consolidator that receives data from every type of business partner involved in the claims process (e.g. collision repair facilities, insurance companies, consumers, salvage yards, independent appraisers, etc.) we are uniquely positioned to analyze industry data from these disparate sources. We believe that analyzing and reporting on this data can benefit both the auto collision industry as a whole and our individual business partners who utilize that data to improve their operations. Consequently, ZZZZ routinely utilizes data provided by our business partners to create aggregate industry statistics and reports that do not identify data specific to any individual business partner.

# Current Data Policies

## Designed for Proprietary Networks/Relationships

Established with a business relationship between repairer and a specific insurer or group of insurers through a DRP agreement.

Data or the “work product” resides on local system owned by user.

Information shared based on profiles that communicate to insurer directly through estimating system or claim management software.

Only information shared is what is uploaded through the estimating system or claims management software.



# Who Benefits From Current Policies

|  | <b>INSIGHT</b>  | <b>ACTION</b>   | <b>OPPORTUNITY</b>                                  |
|--|---|---|---|
| <b>CONTROL APD SEVERITY</b>                                  | Poor compliance to carrier adjusting rules.   | <b>Technology:</b> Implement new rules in an estimate compliance solution.                                | 5 year PV of \$3.8 MM                               |
|  | Benchmarking of best practices repair / replace behavior on frequently damaged part.                    | <b>Reporting / Scorecarding:</b> Measure particular part repair incidence on minor hits and set a target. | 5 year PV of \$8.7 MM                               |
| <b>REDUCE LAE EXPENSE<br/>IMPROVE CUSTOMER<br/>RETENTION</b> | Benchmarking—Higher supplement percent than industry, plus direct relation to increased rental expense. | <b>Technology:</b> Change workflows for simple supplements and implement an estimate audit tool.          | 5 year PV of \$4.9 MM<br>(lower rental fees only)   |
|  | No statistical relationship between Alternate Parts Utilization and decreased customer satisfaction.    | <b>Policy / Practice:</b> Alter claims guidelines to drive more alternate parts utilization.              | \$5 to \$10 per claim per percentage point increase |

# Cloud Computing

Internet-based computing, whereby shared resources, software and information are provided to computers and other devices on-demand, like a public utility.

This technology has been envisioned for over 15 years ...

It is inevitable to become The 'norm' for all computer software.



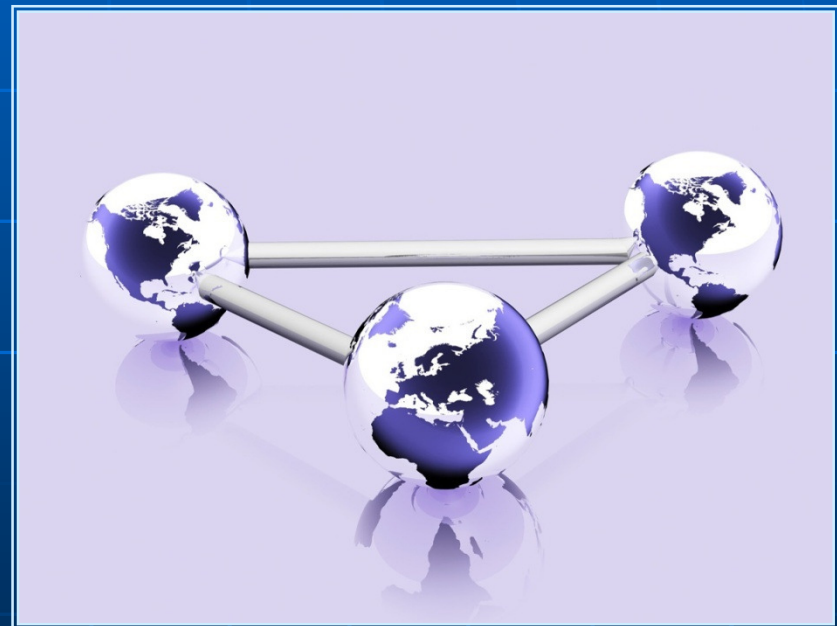
# Cloud Computing

Not only the application resides outside the facility, but typically the data or “work product” also resides with the application outside the facility.

The internet becomes the network connection.

This is not a presentation to discuss the challenges that will most likely occur using this technology early in the development.

This new data paradigm requires different data privacy considerations.





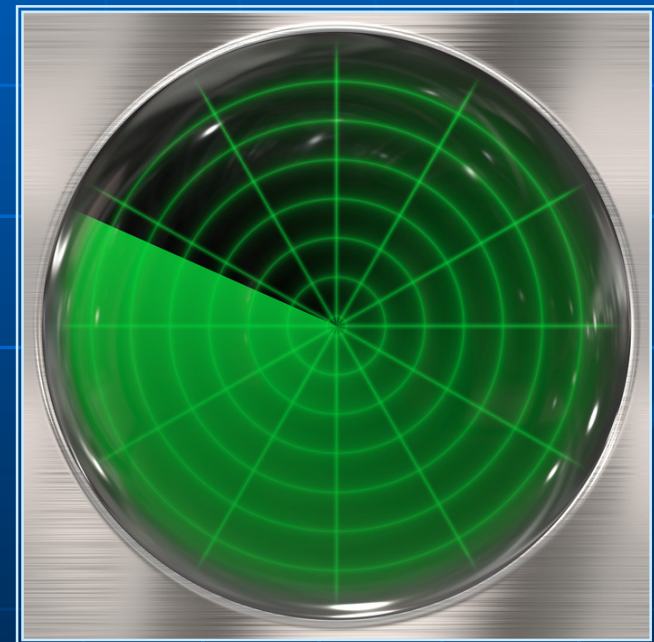
# New Data Privacy Concerns

ALL Data is now "Uploaded" and accessible for aggregation, usage based on IP's data usage policy or terms of agreement.

Individual rights no longer dependent upon if repairer has a business relationship with a specific or group of insurers.

Every estimate is on the "radar"

- Your daughter's car
- Your best buddies car
- Your rebuilders



## **Fundamental Question:**

Who owns the rights to the "work product" ?

# New Data Privacy Needs

**Eliminate the unacceptable only current option ...**

*"If you don't agree, you don't have to subscribe to the service"*

The Individual determines based on profiles\* which estimates can be used by IP's based on the user's business agreements.

\* Additional individual rights must be established to authorize the usage of any specific estimate in the system database.

Implementation of new BMS Standard to reduce the excessive information provided.



## **Fundamental Agreement**

The "work product" and information it contains is owned by the USER.

Questions ?