

**Eric:** One of the things I try to do on this podcast is take things from a different angle on topics, particularly when I've been doing extended coverage on them. This is the case with today's podcast episode. I find myself continuing to think about the co-op model in terms of DAOs. I often wonder whether many DAOs, not all, would be better off first in a cooperative model, and then transitioning to a more decentralized state, and maybe dissolving the cooperative at some point if it makes sense in favor of a fully decentralized model.

Again, it depends on the desired outcomes. Last year, I was trying to wrap my head around different cooperative structures and that's when I first met Todd ethical son. One of the things that really struck me about Todd was his deep practical experience in the operation of all manner of cooperatives, large and small.

He also has very deep experience with agricultural cooperatives and utilities, which is where cooperatives really took off from in the. You will see, as a podcast progresses, we cover more than just cooperatives here. We also talk about the coming date of revolution emerging in agriculture, and it may be a very compelling use case for things like encryption zero-knowledge proofs, blockchains.

I don't anticipate that this is going to be a field four mile wide inch deep venture capitalist waiting in with lots of dollars. It will take specialists with ties to the communities, but make no mistake at all. It's a revolution and it's going to happen. And there's a ton of actionable real-time data.

So this episode is definitely a twist on areas that I typically cover, and that makes me really excited to present it to you. So I'm challenging you as listeners to think about things differently and draw your own connections to what you do. So sit back and open your mind. Welcome to The Encrypted Economy, a weekly podcast, featuring discussions, exploring the business laws, regulation, security, and technologies relating to digital assets and data.

I am Eric Hess, founder of Hess Legal Counsel. I've spent decades representing regulated exchanges, broker dealers, investment advisors, and all matter of FinTech companies, for all things touching electronic trading with a focus on new and developing technologies.

Okay, so today I'm excited to have Todd Eskelsen on the podcast.

Now, Todd is a, what I would call a resident expert in cooperative law. He has a long career representing clients in the cooperative space and given the focus that The Encrypted Economy has had on cooperatives, particularly in the realm of technology. I had an opportunity to talk to him on another matter of some time ago was impressed by his deep knowledge of the topic and super excited to have him on today.

Welcome. Thank you. So to kick things off maybe you could give a bit of a background as to how your practice in big law shift. How your practice has evolved and maybe even the move from going from a big law to your own thing now where you're representing clients more, more I guess in your own practice individually.

**Todd:** Okay. I am a simple country. Boy. I grew up in a small town in Brigham's in Utah, Brigham city, Utah went undergrad to the university of Utah, a graduate school. I went to Georgetown to law school and came out of law school, intending to be a businessman, but decided to take the money that was offered to me as I came out of law school, which turned out to be a good thing because law school gave me the chance to get into boardrooms and into business situations much quicker than I would have been able to do as a person coming out in business.

So I came out in. Join the group called the Sonnenschein, which is now Dentons, where I worked for 20 years and then went to Schiff Hardin another law firm here in the Washington DC area and five years ago or so I came out and decided to go out on my own continuing to practice described myself as a mergers and acquisitions, lawyer, mergers and acquisitions and financing lawyer who also works quite a bit of time with cooperatives, particularly agricultural and supply marketing co-ops that's the background where I stopped

**Eric:** now.

They're there, they're different practices, mergers and acquisitions does mergers and acquisition. Factor into cooperative. Do you find them, them aligning on the same page once in a while for?

**Todd:** I'd say it's interesting because co-ops are businesses. Sometimes people forget that, but the object of a cooperative is to actually make money and co-ops are just a way to do that.

And to then effectively and efficiently distribute those profits to the people who are participating. Yeah, I started off one of the first assignments I got as a new lawyer was a state tax issue for cooperatives and I had the opportunity to continue, and they enjoyed it. It's a fascinating business representation, but because of the co-operative form and structure it has some unique and exciting opportunities and challenges to be able to pull it all together, to work through a co-op structure.

**Eric:** Has there ever been a. Have you ever worked on a merger for a cooperative? Yeah,

**Todd:** sure. Surely I've worked on, in fact, I'm working on a merger right now four co-ops into another co-op into a larger cooperative. So yeah, I mean they're businesses they're in fact, very similar to corporations with limited liability with boards of directors, with articles of incorporation bylaws, and they can do everything that the corporations can do.

And they just have this interesting overlay of how the money, how they're controlled and run out of money is distributed at the end of the day.

**Eric:** That's interesting. Cause I've certainly gotten an, a view into cooperatives, but coming at it from a more decentralized model. And so my bias has been, I don't come out it from a big cooperative model.

Certainly understanding the shared ownership component, but I think. I think that's one of the things that I really wanted to bring you on about, because you've, you really have that sort of how cooperatives work and a writ large sense the larger cooperatives in the more and in the technology space to cooperatives really haven't developed the size-wise.

I predict that will change, although I've got infinity to actually be correct on that. I'm probably, as long as somebody says, they haven't gotten large yet, I'll say I'm not dead yet. And even after I'm dead, I'm still at the clock still ticking.

But I actually think it's going to happen a lot sooner where we're going to start to see more significant on a cooperative side. And on that note so agricultural co-ops are really short of not an international sense, but really in the U S agricultural co-op cooperatives is really.

I guess where it began or at least it certainly appears as if it that's where it began. And you go back to even like the I think it's the 33 act. And some of the exemptions that are granted specifically for agricultural cooperatives just underscores how sick, how significant of an influence they were at the time.

But that's, you're the expert. So maybe give us a little bit of a historical backdrop. Why the farmer cooperatives were so important in getting that exemption and that the ongoing role that agricultural cooperatives have played Yeah. In the last a hundred years, I guess

**Todd:** I think it comes out of really the post-civil war when the United States moved from an agrarian society into a more industrial society, but still was a major producer of agricultural products.

And so what was happening as the corporations came in and started asserting some of their power and the, the benefits of that form of ownership, where we're a parent farmers and the people who love farmers wanted to figure out a way that, that some of the benefits of the corporate form could be provided to corporate, to farmers, but didn't want to do it in a way that totally destroyed everything with respect to the farmer himself.

And so the cooperative model came up and was developed in, particularly in the upper Midwest. It was developed among the farmers there. And it was in essence farmers joining together to advance their interests in the light of the change circumstances, where they were now assimilating and congregate and aggregating their materials and their products

and selling them to corporations who had massive power shipping them by rail, doing things like that.

And so really about the turn of the century, the 19th, or the 20th century and early in the 20th century, there was a real push by people to organize and empower the cooperatives. That's when a number of the co-op statutes came in to place on the state level, that's when the Capper Volstead act, which is an antitrust exemption for agricultural cooperatives came into play, and it was a way of strengthening the economy.

And the way that, that assisted the farmer in reaching their goals. And remember at that time, something like 90% of the American population lived on a farm or lived close to a farm. So as to be able to be heavily involved in agriculture. So it was really seen as a, as the populist agrarian way.

And even today, we still say that the, the farm economy or the farm lifestyle is seen as a, in many ways, lifestyle in a way for people to live the good life. And co-ops, I think still have a major part in that good life as we go forward.

**Eric:** At the time the exemption for federal securities was limited to the agricultural cooperatives.

Maybe just because the desire, it was such a huge part of the, the American economy that's what drove it. And, but they didn't exactly facilitate, at least they didn't at the outset, encourage the expansion beyond agricultural cooperatives and even to this day, and a lot of statutes the purpose of the cooperative is limited to more agrarian purposes with certain exceptions across states, which allow a broader purposes for the cooperatives.

Why do you think that is that really just a historic aspect of it that just hasn't been adapted? There's been. Need to expand it as much in, in certain legislatures, or do you think, in certain pockets it's become more exciting I know for example, California has worker cooperatives there are housing, different segments have fisheries or there's, I guess there are other cooperatives that are adjacent to agriculture, but, in, in many cases the purposes haven't been really expanded to be like everything, it's not so why do you think that is?

I think

**Todd:** a couple of things, I don't know. Co-ops weren't the only entities that had exemptions. There are exemptions in the 33 act in the 34 act for securities and or transactions that are related to governmental entities that are

related to regulated entities like banks. And that's true savings and loans and things like that also to not-for-profit entities so I think it is a choice that is made, and I think it's based

more on I think to a certain extent it is to protect widows and orphans the people who could be seen as being subject to losing their money and get rich quick kind of scheme.

And I'm not sure that I would say the co-ops are the only entity, but you're correct. I think there is some real hesitancy to expand the exemptions particularly on the part of the sec to expand the exemptions. And I think they see that in there protecting widows and orphans and making sure that.

There's the adequate disclosure and all of the other things related to that. I think now what you're also seeing though, is that you're seeing some people looking and saying, Hey, the co-op arrangement this model whereby people get together to collectively participate for the greater good of the community that they develop is one that is worth emulating.

And is there a way I think with some of the limitations that co-ops have, is there a way to maybe marry the best of a couple of different worlds to develop a new entity? We had; we've had good success with the limited liability company. And that model that I'm old enough to remember when there were no such things as limited liability companies in Wyoming came up with the first kind of thing that was like, whoa, what is this.

I think we've seen success with that. And people are now looking and saying, are there other ways that we can develop new ways of doing business? So I think that the co-op model is one that certainly people are looking at because it has been around for a long time. And there have been several very successful co-ops that have continued.

And the whole model is that it is a kind of a nice

**Eric:** way to work. And it does a lot of precedent supporting it. So in terms of where cooperatives and what you touched on this, where cooperatives are the most successful, the characteristics. Certainly that the idea of working together.

W what are the characteristics of a successful cooperative? If somebody is debating should I do a cooperative, should I do an LLC? What are some of the driving forces? Obviously, I've heard cooperatives referred. I, we had Greg Brodsky on the podcast a while ago and he said, the, effectively what a cooperative is a, it's a shared ownership model.

That's it's a shared and that's effectively what it is. And you don't just form a cooperative and then decide what you want to, and say, oh, how do we make it a cooperative? It's like, how, what kind of ownership model do you want? And if a shared ownership model is what you want then the cooperative is for you.

But from your perspective, again, having dealt with a variety of companies that you have, what would you identify as some of those successful characteristics for a cooperative? I think

**Todd:** that the success of a cooperative is dependent on the ability of the group to work together, to establish a

System of rewards and incentives that compel people to participate together. And the structure itself helps to do that. It's a sharing. In other words, it's you make money, you can make money as from the from your own actions and the actions of others. And the way you can make more money from both of those is to be more successful.

I work quite a bit with marketing cooperatives and what marketing co-ops can do is that they can get together to make investments where you can process your raw product into something more and sell it for a higher price and thereby move down the value added chain and capture more of that for the producer by collectively participating.

So it's the collective participating. It's the collective everybody's in the same boat together. It's the self-governance and the, in some ways it's the necessity of finding consensus. One member, one vote your largest to your smallest, all have the same voting power. Now, practically, that's not really true.

When you do have the same vote, but if the larger member decides to pick up and leave, it's a much bigger impact on the cooperative than if a small member gets up and leaves. So members, larger members have more influence on those kinds of things, but still there is a consensus that has to develop. I think that

**Eric:** votes can be not necessarily equal, right?

Not necessarily equal,

**Todd:** you can't do that but because of IRR, IRS considerations, you can't be too unequal. In other words, it doesn't necessarily have to be a one member, one vote, but if you get to the point where you're controlled by a very small number of people, then all of a sudden you're not losing your owners owning and controlling, and that's a requirement for IRS purposes.

I think the other thing that co-ops do well by is when you're successful and can take a long-term view of things and not necessarily a short term profit making venture, but you can say we're in this for the long haul. If we're going to buy, set up a major processing. We're going to have to plan for a recovery over the next, 5, 10, 20, 30 years.

And once you get those collective investments put in place, then they can start returning some real investments for a long period of time. So it's the concept of having a of a long-term sustainable business model that I think proves successful and can renew itself over and over as younger members come in and older members leave for instance.

So it's the whole, it's the concept. It's the old barn raising kind of concept. Get together with the people around you and people in your industry. And collectively you can put your heads together and make it better.

**Eric:** And so the reverse of successful cooperatives, one of the pitfalls that you've encountered as an attorney that you've seen across and how do you mitigate those pitfalls?

**Todd:** The pitfalls are many ways, some of the advantages too. It's the whole thing. It's a long-term plan. If people, if you don't get on top of things very quickly and you don't have some success, people can get disappointed and take off. It's the voting with your feet members if they don't like what's happening.

They're both customers and the stockholders and, they can blow things up just by walking away. Capital finds a long-term capital financing; I think is one of the areas that is really difficult for cooperatives because. When you come into a co-op, you have to plan on staying around to see the benefits from your investment, and co-ops are really set up to be to service and to perform for the current members of the cooperative.

That's how they return their profits. That's how they make their decisions. What is best for the people who are currently. And that could be, that could have a long-term component to it, but it is nonetheless not something that you get in early and then just sit on in which you're gonna ultimately be paid back its own, increased value, but it's really that you're making, it's the way to do business on a current basis that maximizes the return to that's the, that's really the difficulty is that the long-term financial.

And you only go back to your members so many times because ultimately they run out of money and, in an agricultural cooperative farmers are already pretty heavily invested in the agricultural sector. It's tough to diversify in a cooperative because you own farmland, you own farm tractors you're producing farm products.

Your job is the same thing that your investments are in. And to go put more money into it, to an entity that is going to process and sell into or sell out of the agricultural economy you can get pretty concentrated. And so those are some of the pitfalls. And I think that's, what's leading to in many ways people trying to find this the best of two worlds where you can get more long-term capital into cooperative.

And get some returns in some other ways. So as to bridge that gap and that difficult, right?

**Eric:** Yeah. It's certainly one of the things I like about cooperatives in terms of the, one of the models that makes it exciting for, people who are looking at decentralized autonomous organizations, something known as the Dow is more decentralized structures is that the, if you're getting rewarded based on what you're contributing, it does limit the

ability of one person to come in, make this sort of like big splash about all the things they get misallocated a disproportionate piece of the enterprise, and then fast forward two or three years now you're carrying that, you can also offset it through vesting plans and et cetera, but oftentimes that's not the case.

And in many ways the cooperative. Sets the stage right out the gate that says, Hey, every year it's based on what you contribute. That's what you're going to get you drop off. You're not going to get the same amount and that's what makes us such an elegant solution. And it does it does require you thinking a little more long-term and certainly as you have more capital intensive aspects to it, like in larger cooperatives with agriculture or into, or fisheries or things like that, where it requires that upfront capital investment, certainly that does extend the timeframe.

And it, for us technical people are like 30 years. How many, what the average age of the participant? I don't know. But yeah and I think that's one of

**Todd:** the difficulties that we're seeing is there are a number of uses that are potential potentially available to co-ops could be helpful in, but getting that, aligning that mindset of the tech mindset versus the agricultural mindset where agriculture, you can do everything.

And it's the night before harvest, the hailstorm comes through. It's just as if you were wiped out on day one by the frost, and so there's a, there is a risk, but every, the next year it's going to come back and next year you'll be able to do it again. And so there is this kind of a long-term ability to roll with the punches, knowing that there's always opportunity.

And even if you miss it this time, those investments will still be available for you next year, when the process starts again. And that's not always the case or not always true in the quicker technological activity that you're in right now, because the world could move on for you. And, a week later, somebody may have already come up with that idea or marketed it in a better way or established a different standard that you may be sending on the best.

That there is, and the VHS has just come in and walked away with it. And that's not even taking into account CD's and, streaming and all the other things that could eat your lunch. So I think that's right. There is a that's one of the that's one of the concerns is the different time spans, different time horizons that people see in co-ops versus in some of the other technological investment.

**Eric:** Now you touched on the hailstorm that sort of, God active God, something that you have to live with as a business owner. And certainly you would think that cooperatives would do a pretty good job of spreading some of that risk. It could be a hailstorm that hits

all farmers, or it could be a hailstorm that hits some farmers more than others, or it could be some other active guide that strikes one more than others.

Do you find. Insurance plays a role in cooperatives that you've worked with.

**Todd:** Oh, sure. Yeah. The old saying is everyone prays that the hailstorm will hit their neighbor's property. Not because if they do, obviously it's in the market, your competitor, who is supplying, it's knocked out, play your value of your products automatically goes up.

That's farmers often joke with one another. That's what they're, that's what they're praying for. But yes, you have to do things a farmer has to diversify. He has to have various different products either that, or he has to have insurance against the losses or such a big operation that it's outside of the hailstorm know a single hailstorm can't

**Eric:** knock out.

But does the cooperative play a role in that insurance

**Todd:** mechanism? Yeah, I, that's the nature of the cooperative in that it's large enough that you can have, even if your crop gets knocked out, you may very well still participate because your patronage is dependent on how much you deliver.

And even if you deliver some, you won't be knocked out completely so that you'll get some return and you'll get your portion of that return from other people's products. The other thing is it gives you the technical expertise and the collective knowledge to be able to figure out. And then there, there are government programs to know for crop insurance and other things like that.

**Eric:** And credit unions are a form of cooperative. I don't know if they fall under the same statute, do they?

**Todd:** They don't fall under the same statute, but they are a cooperative, their form of

**Eric:** cooperative. So that certainly has an insurance component to it. Do you find that the concept of patronage sometimes difficult to explain to clients?

**Todd:** Not really, because many of the co-ops that I work with are everybody's in the same business, delivering the same product or related products, you may be delivering grain of one sort or another, you may be delivering cattle or hogs or something, and it's the same process. And so it's really, explaining to them the concept of a refund on your expenses or a share of the profits is the easiest way to do it, where you get into difficulty, particularly in these new age.

The newer multiuser cooperatives are defining how it is you're going to calculate bathroom. And then you get into some difficulty because if you have different types of

people who are all members but coming at it from different standards, Then defining what the pattern is and how you measure and how you compare it to the measure.

So as to be able to distribute the earnings on the profit of the cooperatives, that's where you get into some difficulties. And that's where it gets hard too, that you have to make some real efforts to upfront define exactly what you mean by patronage and how the different classes of members are contributing to that overall amount of money that you put.

You can put your,

**Eric:** and when there are disputes and cooperatives, I know there's no single standard, but when there are disputes and cooperatives, do you find that patronage is often one of the areas that, that, that causes those disputes?

**Todd:** Yeah. It's like a dispute in any other business, how you allocate the money and how is it?

You have rights to the money. I know that I've had multiple times where I've probably had as an individual and invested capital in the business at a very critical time and come up with the rights. As I delivered my capital, I came up with rights that were residual and then, four or five months or years down the road the people who were working in that business, all of a sudden start to say wait a minute, how come that guy's getting so much of this return?

All he did was to give him money and he hasn't really done anything since then. So yeah. How you allocate patronage and the different ways that it could be allocated is it is the source of all this.

**Eric:** It's interesting cause you I'm also gonna key off of something you just said, which is where you invested money, but you weren't. And this may or may not be a cooperative, but you weren't an active participant. You invested as an investor as opposed to a cooperative member, not all statutes recognize the ability to have a different class of investors that are a diff a class of investors, different from the actual members.

I know Colorado has that. What other jurisdictions have that structure, which allow, specifically allow investors to be a separate class from the members?

**Todd:** I think that I don't know that it's really come in directly until we had the limited cooperative statute.

The uniform limited cooperative act, which was put together by then the casual folks 10, 15 years ago or so previously there were ways that investors could get more. But they were always getting money out of cooperatives as an investor. In other words, you would come

in and you would get a dividend on your stock, or you would lend money to get a return through interest.

But they really didn't have many instances where they participated in the profits. And that came in the states and the district of Columbia that have adopted some form of the limited cooperative act have that in there, Minnesota has been doing some interesting things within Colorado.

I've been doing some interesting things in it. Some stuff that they're doing, so you're seeing it here and there, but I think right now it's been in fits and starts. Rather than that, in many ways what's happening now is we're developing different parts of the statutes without really doing a very good job about integrating all of the statutes to be able to work together.

And that I think is in some ways, part and parcel of kind of the federal nature of the American government system, because you have the federal overlay and the federal government of course is, is Supreme in the areas they choose to be Supreme and states can do various things, but you'll often run into problems with the interaction with the federal law like marijuana.

Everything works fine in the marijuana industry, except for the fact that can't use the banking system because of the federal government. So therefore now all of a sudden you're having to use cash and that has its own set of problems. When you have a whole bunch of cash laying around. But similarly, cooperatives are tax animals.

The internal revenue service has, when they, the code has a sub chapter team and there are rules and regulations there, there's also the securities industry with the sec regulates and the states can do some things and they can make some pronouncements, but they don't go outside of their borders.

And so to make these pronouncements and to have these advantages only worked so far, and then you bump into the federal regulations or another state's regulations and making them work, cos all of these platforms is the difficulty that we're really self-aware, we're really facing now. It's tough to check all of the boxes in a successful.

**Eric:** So I had gone through a number of different states looking at their cooperative regulations than an analysis. When we talked, you had actually noted Minnesota, which had come up in my bucket, I trimmed away some of the ones that were just like, okay, agricultural only can't do anything with that from a technology perspective.

And slowly winnowed some down, I found I had some very interesting discussions with some attorneys and even legislatures from Ohio that seemed at the time very interested in potentially exploring how to bring technology into the wrap of the Ohio LC a, I don't know.

And my, I started to develop a bias, which I'll check with you. And we talked a bit about, is that there's Colorado. Bills itself as the Delaware of cooperatives. And maybe fairly, so given how flexible it is. But as a as a somebody who's just has a hard time thinking that there's only one flavor or one size fits all, I became very interested in identifying other jurisdictions in Ohio came up Minnesota came up DC came up for a very different reason.

They have a very interesting take that facilitates advocacy groups that I think is unmatched and surprise, but it's sorta you would, you, would you wait, I'm not, I wasn't shocked to find it, but I was like, I was taken aback by how. How well structured it was for advocacy.

If you're thinking about doing an efficacy organization in in I gotta turn off my phone if you think about doing an advocacy organization I don't understand why you w you know, if you don't use the Washington one, you're probably just didn't even realize it was there, but that aside, which, Minnesota, Ohio California certainly has a very interesting worker's cooperative statute, which other jurisdictions are more intriguing to you in terms of flexibility for technology data, other use cases,

**Todd:** A much of my work is not done in technology.

In other words, I do the traditional agriculture and for those, Minnesota really is a very good jurisdiction. You can get a lot of your other jurisdictions to work. Maryland has a decent cooperative. Virginia's is a little old and creaking has some restrictions

**Eric:** and they know how to sell

**Todd:** it.

And I think that's, the agricultural states are the ones that I've looked at because there's been a number of, there's good history and, that's, the other thing is one of the things businesses look for is certainty. And a lot of these new statutes look fine on paper, but they haven't yet been challenged and

they haven't been challenged. Number one. And then number two you want to make sure that the place where you go has a judiciary that actually understands the entity that you're talking about and can understand some of the nuances that come with deciding a case one way or another. And so that's why Delaware has a very educated judicial.

And the bar they get together, and they regularly cooperate to one another to say, here's the developments, here's the problems we're finding, what are the creative ways to go about fixing them? And then they can negotiate and then they can, they can discuss them in their internal bar conversation,

But co-ops, there's, there are a bunch of us to get together at the national council of farmer co-ops on a regular basis and we debate them. And in the national society of

accountants for cooperatives to the larger, more exciting organizations in the country that everybody ought to join and participate.

It's developing the business environment that will. And as of right now, the best places I think are the Colorado, Minnesota, Ohio is working on it and coming up with some things and them continuing to do many of the states in the south. They have some decent Arkansas has a good co-ops law.

They have, started to try to think about how it is. This is an evolving prospect. And I don't think anybody's hit the exact right mix yet. But people are working on it, so I hope that they will. And it'll, there'll be a couple of them that'll really shine. And then, it'll all work just like the LLC

**Eric:** stuff.

I had looked at Arkansas too. And there were a couple other ones in the south. What I was unclear about was the depth of the press. Or who was covering it or the D or the bar that supported it. And again I hadn't gone as deep into Minnesota as a HIO, but I was actually impressed by the number of attorneys covering it in Ohio.

It seems like there's a fair, fairly deep precedent. In Ohio, w from an agricultural cooperative perspective, would you say they're the leader? I do. It might be an uneducated observation, but

**Todd:** It's a very solid agrarian. I don't know where Ohio ranks in agricultural production, but I bet it's in the top 10, maybe in the top five. It's not California, which is number one, I'm sure. But it's, Ohio, and Ohio, does it have. Some industrial CDs and other things.

They've been a little bit on the road ropes in the last 16 years, but that's the good thing about economies. They reinvent themselves and files. Ohio's got to know the law is working, lock them. I think we'll see some good things come out of.

**Eric:** Interesting. Hey, it certainly seems like there, they desire to make that pivot into maybe applying their statutes to data.

And it seems like they have precedent. I'm not selling them. I'm not selling them over in Colorado. I just, again I don't, as much as I love the Colorado statutes, I'm just like, there's gotta be tools for the job. So sometimes you use different tools for different jobs. But Maybe we should touch on because I know you and I talked about a use case where of cooperatives for establishing standards it could be technology standards, data standards, trying to collectivize across multiple industry participants, the use of a common standard, maybe the use of a common patent or what have you could you expand that?

I know you've got a personal experience with that as well. Yeah.

**Todd:** It's not necessarily a co-operative, but it is an entity that has been organized to do just that. And that's Bluetooth. I

**Eric:** was involved in advice

**Todd:** Bluetooth early on in their organization. And Bluetooth then, everybody knows Bluetooth, right?

It's the stuff that connects your phone or your refrigerator or you're the stereo to something. And it's a technology. That's an interesting standard because what it is it's actually a pool of patents and a coordinated contractual organization that allows people to come in and contribute their patents and to thereby then get rights to license on their patents and to develop a process whereby people in the television, people, mobile telephone, people in the computer industry figured out that if we actually get together and work together and come up with a standard process for sharing these things, we can all make more money by selling more of the goods that we sell.

Just having this technology embedded in it that allows it to talk and to share with other things. Now you're getting to see it in car. Bluetooth is ubiquitous. I used to, as we were talking will say that Bluetooth really allows your lawnmower to talk to your refrigerator. If they get close to them, why your lawnmower wants to talk to your refrigerator is something I don't know yet, but somebody will figure out a reason why it makes sense for those two

**Eric:** could be an extended blender.

**Todd:** Yeah, it could. It could be, letting you know when it is, you get ready to come in and get a cold one. But anyway so Bluetooth is a, a standards organization that gets together. And that in fact operates basically on a not-for-profit entity basis where people make money from is the business that they're involved.

They just assist one another in making more money by collectively pulling together and having a common standard. And so that's something that co-ops can do and that they really are a form of government that is a form of governance and form of business. That could be a very interesting thing to do.

I've also been involved for many years with ITEGA, which I, which is called the information trust exchange and governing association. And what that is it's a group of people that we've been meeting for a long time and 15 years. And it is attempting to develop common governance for the whole issue of participation in digital commerce and intern that communication.

So that the advertisers, the people who are placing the ads for the platforms who are receiving the ads and publishing the ads to users who are coming in and using. The

platform, the privacy people who are concerned that Google knows everything about you. Now I can actually predict what you're going to do before you can.

All of those folks could get together and come up with a way of participating with one another. So as to verify the identity of individuals in some anonymous way but yet still making sure that there's a real flesh and blood person behind that identity and then share the profits and the monies that are being made among all of those folks that are getting better intranet experience, that the ad dollars that are being spent on advertising right now through the internet, you never know who you're getting to and what eyeballs you're seeing.

If there were a way to come up with assurances that you were getting real people and hitting the right people. Would that make it better for you? And if you're a privacy person, you're a person like me, who doesn't like to give out your personal information, how is it that you can give out what you want, but keep what you don't and be compensated in sharing somehow the way of getting to the right people that you want to hear from.

So that's, we've had various discussions and they're still most of them discussions, but cooperatives are a way that could potentially come together. We've got some interesting prospects on that.

**Eric:** And do you see from a technology perspective that despite not having that 30 year or 20 year life cycle for the business that that some of these technology use cases could really do quite well in a cooperative setting?

**Todd:** Oh, I think so. The, the internet has been around now for what, 15, 20 years. You're going to have something like the internet going solid. It's just convenient. And now then it's just a matter of defining how it is that it all works. And in fact, I think that you're starting to see cracks that are developing because of the privacy issues.

You've got the regulations in California, and you've got the regulations in Europe that are basically driving what it is, the things that the advertisers and others have to do. And eventually that's going to get to the point where people are going to have to come up with a way of making sure that there are real eyeballs and real people behind this information and that they're getting good return on their advertising dollars.

Now with Netflix and others where Netflix has seen. It's pretty easy to share accounts. And if you can identify who it is, who's using your particular account, you don't have to worry about them giving it to their friends and that all actually works. So anyway, yeah I think that it governance structure like that, where you have a return to the participants on a continuing basis and can control that.

I think it's definitely going to develop.

**Eric:** And do you think it's possibly superior to just doing like cooperation agreements? Does that strike, I, I guess it's really more of that long-term perspective that I guess contemplating evolution over time and collectivizing action.

**Todd:** I think, much of the cooperation agreements are, I promise I will be there.

But those always come down to what's the enforcement mechanism and the best enforcement mechanism is cash. And the best way to do it is not to try to go get the cash after it's out the door, but to establish precedent so that people are incentivized to get the cash as it comes through the door and, to share that.

And yeah, I do think, I think that cooperatives have a real future in those kinds of institutions and those kinds of ways of making it work. And we've shown, as I said earlier, the big one big problem with co-operatives has been long-term capital finance because they are current institutions.

They are institutions that work in the here and now, and that's where the profits get out there and long term. You have to figure out a way to get a reasonable return. So that Dell investor money and set up these kinds of things. And that's something that I think these new little, some of the cooperative statutes are trying to do.

There's evolution that needs to happen on both the co-op side and on the, the investor side. But I think that can happen. We'll

figure it

**Eric:** out. And have you worked with any international cooperative statutes?

**Todd:** Not so much. Again, much of my work has been in co-op agricultural cooperatives, marketing co-ops or supply co-ops or purchasing cooperatives.

So I, yes, I have worked with some co-ops that have spanned the borders of the U S. In the U S and Mexico, but they've been us entities for the most part. And what I've seen, and it may be just because I'm not as familiar with the U S cooperative law is actually pretty useful and effective and works pretty well.

And I think is more of a recognized business prospect of business process. Then in some of these other places where it's an add on, I also have a little bit of experience with Swedish cooperatives, and I think that's a bit more institutionalized and they may, that's more of a cultural fit, I think so, but I haven't done enough to really be able to make a judgment on them.

They seem to have a number of cops that are doing pretty well.

**Eric:** Do you see other states possibly trying to get into the mix and make their cooperative statutes more amenable to technology? Like Colorado or like Minnesota what do you see the landscape of all these different, cause you have different state legislatures, some just may not want to spend their time on revisiting it.

They're quite comfortable where it is. Thank you. Others may feel like, Hey, if we can get this right, we can encourage a different type of business mindset, different industry in our state. Do you see that at all?

**Todd:** I do. I think there's always legislators who are looking for the best way to

**Eric:** improve their

**Todd:** state's fortunes.

It's interesting. I think in many instances that people are coming up with a solution in search of a problem rather than finding what the problem is and trying to solve. And So I think what I would suggest then where I try to look at things is what is the problem we're trying to solve? And then how do we go about getting that problem solved?

What are the specific terms we're looking to implement? So as to protect them a lot of times what happens, and I think what's happened with the limited cooperative act uniform limited cooperative act has been that it's been pushed by certain advocates in certain places, and they attempt to make it work for their circumstances.

And I think investors are looking and thinking, okay, how do we get the bunch of money out and get it out quickly from cooperatives and. No, the people who are the farmers, particularly we're producing, this are not really interested in coming in and taking a bunch of money out of their pocket.

And it's hard for them to understand why it is. You should be able to be taking out a bunch of money from their pockets. But they have to wake up. Technology now, it's amazing what farm tractors can do for instance. Literally the days when the farmer gets into his tractor and drives back and forth, paying attention and making sure he's driving in a straight line are gone in new tractors, literally the farmer gets in and turns on a movie and watches a movie while the tractor itself plows through the field.

People may think that. That's absurd, but that's exactly what happens in new, the technology on the farm and our farm equipment is extraordinary and it puts them different rates of fertilizer at different places in the fields, based on what it gets from the satellite and the agrarian, the analysis has been done on the property.

All of those things, that's getting more and more expensive for the tractor. These days I'm priced one for a long time, \$500,000 is not out of the ballpark by any means for a tractor, a big tractor, big combine,

**Eric:** just to be able to watch Netflix

**Todd:** well, while you're harvesting.

**Eric:** Oh, it's everything else too.

I guess all of the sensors that as they're going through.

**Todd:** Yeah. And, but it's, but that's the kind of thing that's happening and now what's also happening. Are there a. Technology companies that are seeing that this information is valuable. It's valuable on lots of different levels. It's valuable if for no other reason than speculators have a better way of figuring out what the weather looks like, what the water looks like, what the sunshine looks like in a particular area, and then figuring out how that reflects on what the prices are going to do when commodity.

So there's now I've had a couple of co-operative clients who've come to me and said, Hey, we have all of this information that we get from our members on various levels. And we have access to our members that we could install some of these sensors and other things. What are we do? And we're being asked by technology companies all the time.

How do I get to your members to collect that information? And I've had some interesting licensing discussions in licensing negotiations. It's an interesting time.

**Eric:** Yeah. I was at a conference last week. It was so The Encrypted Economy has, it's not just crypto, it's not just cooperatives it's encryption.

That's really the fundamental core that and everything that touches on it. And so I do I cover privacy enhancing technologies and having just more interesting discussions about fully encrypted in use, where you, where farmers can contribute this data to a central processing unit and then draw information.

It's again, it's an extension of the cooperative where the sharing of data can be leveraged by all the participants in it. But one point was raised as that, This information is very, a lot of this information can be competitive, like to the extent that I'm, I have a different soil mixture or different some other pattern that gives me a slight edge.

Maybe I have the best peaches, just whatever you know, or the best crops or I have the sweetest corn, or what have you, but it's, all this information, if it could be reverse, engineered could potentially give a competitor. Even though I'm cooperative with them, it could give a competitor the edge at my expense.

So the notion of privacy enhancing technologies is that to the extent that you're processing this information, allowing others to draw from it, that information gets fully. It gets encrypted in processing. So as you're compiling your statistics, even that whole process itself is protected.

So it's like a sealed container. It never like it doesn't have any risk of leakage and, probably might be a bit sophisticated for a farmer to understand, and it may be very sophisticated for a lawyer to understand. So I better watch what I'm saying, and I get a bunch of pitchforks thrown through my window.

Or people driving tractors while they're watching Netflix. But it's, this is actually a very real use case for encryption technologies and it's a very real use case worldwide, right? Like across the entire globe, there's so much information in agriculture and, things that make certain crops successful versus others and competitive advantages.

So there's an enormous amount of value to be gathered from that data. But there's also competitive advantages that could be surrendered through that data. And so contemplating that whole fully encrypted environment to ensure that no one person is siphoning off the information and benefiting or selling it to others, that whole collective encryption, if used right, could actually just benefit a lot of farmers across the board.

While also not being used to a disadvantage or maliciously against any particular farmer.

**Todd:** The interesting thing about information is it's really limitless. In other words, you can put together information and get insights through the aggregate and you can then tear apart information and getting, get improvements or benefits out of data, pulling it out.

And there are winners and losers and all of that conversation. And so you're exactly right. How does it. How does a farmer. And in fact, anyone with access to information and we all have access to information, we all are. We all are the product that's on level our information and what we do.

How do we gain a seat at the table when our information gets aggregated and when our information gets dis-aggregated and how do we make sure that we're protected and that it's not somebody making money off our shoulders? And I'll just throw in a pitch here. As far as sophistication, when you start talking about farmers and tractors,

**Eric:** I knew I was going to get in trouble for that.

They are really sophisticated.

**Todd:** If you think about what a farmer does, he's got to be a weatherman. He has to do futures forecasting. He has to manage his inputs. He has to pick at the time when he sells, there are very few successful. Who are not highly sophisticated? So

**Eric:** I had a very, I want to qualify because I don't want to end up.

So I was really just saying about this privacy enhancing technologies. It can get, not a lot of people understand it. I was just making an uneducated supposition that it might be difficult for farmers or lawyers or anybody else. So anyway,

**Todd:** it's not something that they commonly deal with.

They'll leave it at that. But yeah, it's a, yeah. This whole economy and everything. That's part of, just that, what you just said there is part of what's fun about cooperatives is because it's the business side of things, but it's also this other concept of how we collectively work together to be able to reach the goals that we need to within the confines of the contractual relationship that we have and the legal overlay that is there.

I've done this now. 30 plus 35 plus here more years. And I like to think, but they continue. I'm just having

**Eric:** 25. Sorry.

**Todd:** I appreciate that. I appreciate that. All my shoes are, so yeah, it's I think there are lots of uses for co-ops and we haven't found all of them yet.

So

**Eric:** before we break is there anything that maybe I didn't go into as deep as I should've or missed or some nuance that you think might be a particular interest in my viewers?

**Todd:** I maybe just circling back to, the difference between the investor mindset and the member patron mindset and that's inherent in a cooperative is that your co-op members are both the customers and the equity holders. And that leads to a different way of looking at things. And investor is really a person who comes in and invest and then is looking, when you invest, one of the first things you asked is what's my ad, what's my exit strategy.

That's what you should be asking and how do we get return? And the co-op model can be very good people on both sides can trim their expectations and align their expectations to say, how do we get in and collectively make the pie bigger. So we all get more from the pie rather than how do we divide this pie up.

And if we can think about things in that concept and work on figuring out how to solve the problems. I think these are the new statutes and the statutes to be developed and really be successful in the. There lots of capital is required these days. And so lots of sharing and cooperation and coordination and, cooperative efforts are necessary in order to get where we want to be.

And that's co-ops are very cooperative.

**Eric:** I never realized that anyway. Todd, thanks so much for coming on the podcast. It was exactly what I was hoping for that that longer-term perspective of representing cooperatives and using that model of think in terms of, Hey, how does it apply to the technology use case?

But in fact, eh, agrarian cooperatives, maybe their own technology use case, particularly with regards to the data that they collect. And in fact, maybe an extremely compelling use case for data cooperatives.

**Todd:** And as you and I have discussed it may make sense for you and me to continue the discussion about data privacy and how that works in a cooperative world, they would work well.

So

**Eric:** pleasure to be on same. Thanks so much. All right. Take care. .