

Farm Management



Farm show: prime time for sales talk

Country Counsel

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Key Points

- Know the difference between sales talk and warranties.
- Ohio law differentiates sales negotiations into opinion and facts.
- Express warranties should be included in the sales contract.

SEPTEMBER is Farm Science Review time, which provides farmers an opportunity to see the latest and greatest farm machinery and technology. “Kicking the tires” and talking to salespeople is one of the main reasons the Farm Science Review draws thousands of pro-

ducers every year. It is the salesperson’s job to try to make a sale by convincing the potential buyer that this is the best

machine for his or her purposes. Buyers should understand that some statements made by a salesperson are just sales talk, and some statements can be guarantees or warranties.

Puffs vs. facts

Ohio law separates sale negotiations into two categories: statements of opinion and affirmations of fact. Statements of opinion are commonly known as sales talk, dealer’s talk or puffing. Sellers are permitted a

market” or “second to none” and “will meet your needs.” At this point, the dealer is engaging in puffing, trying to gain the farmer’s interest in his tractors. The farmer decides to buy Model X to pull his corn planter and drill. The next spring, the farmer is disappointed that the Model X tractor does not pull his planter and drill better. The farmer likely has no recourse against the dealer for the disappointing performance. The dealer made no affirmations of fact as to the actual performance of the tractor.

Conversely, during the sales negotiations, the farmer states that the tractor he needs must pull his 16-row corn planter at 5 mph and his 20-foot drill at 6 mph. The dealer responds by stating that Model X will have no problem meeting those criteria. The dealer has now gone beyond puffing and has made an affirmation of fact. The farmer decides to buy Model X and finds he cannot pull his planter and drill at the desired speeds. The dealer’s promises created a warranty, and the farmer can seek to return the tractor or receive compensation for the breach of warranty.

All representation made by the dealer and all requirements of the producer should be expressly included in the sales contract. Any specific requirements the buyer has should be clearly stated in the contract so both the buyer and seller have no misunderstanding as to what the buyer expects and what the seller is promising. Relying on verbal statements to enforce contracts is very risky and often unsuccessful.

The above discussion focuses on warranties created as part of the sales negotiation. Sales will also include other express warranties in the sales contract. For example, the sales contract may provide that the dealer will pay for any and all repairs for the first year of operation. The buyer should carefully read the purchase contract to determine what warranties are expressly included in the sales contract. The buyer can then ask for additional guarantees to be included in the contract, like the criteria in the previous example.




certain amount of leeway in puffing their products.


Some examples of puffing might include “this is the best tractor on the market,” “it runs really well,” “it’s dependable” or “it will do a great job for you.” Livestock can also be subject to puffing, such as “she’s a show winner” or “these calves will really put on the weight.” Puffing is considered the seller’s opinion and does not create a warranty on the product.

Affirmations of fact by the seller to the buyer become part of the basis of the bargain and thus create an express warranty that the product will conform to the promise. That is, promises that relate to actual performance or that were critical to the buyer’s purchase decision rise above mere puffing.

For example, a farmer stops by a dealer’s display at the Farm Science Review. The farmer tells the dealer he is looking to buy a new tractor. The dealer explains that his line of tractors is “the best on the



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