

August 14th, 2024

Innovation, Science, and Economic Development Canada
Via: isrighttorepair-ledroitaleparationsi@ised-isde.gc.ca

Re: Joint Agricultural Submission on Right to Repair Consultation

On behalf of the Grain Growers of Canada (GGC), Canadian Canola Growers Association (CCGA) and the Canadian Federation of Agriculture (CFA), we thank the Government of Canada for initiating this right to repair consultation announced in Budget 2023 and again in Budget 2024. Our three associations collectively represent over 190,000 farming families across the country who increasingly rely on technology to perform day-to-day farming operations.

Background

In the digital era of farming, the current monopolistic environment for repair services is resulting in farmers being unable to promptly address repair issues with their machinery. This results in inefficiencies, a loss of competitiveness, stifles innovation, and increases cost and risk to farm revenues during the short Canadian growing season. This is especially true when farmers need to repair their equipment during harvest, as each hour of delay can cost them thousands of dollars. Barriers to repair are creating safety and productivity concerns, with 77 per cent of producers who have considered buying older used equipment to avoid the complications associated with repair¹.

It is generally well understood that modern farms are increasingly dependent on specialized machinery for their operations, such as tractors and combines, that often involve GPS connections, sensors, and digital software to operate. However, this reliance on technology extends beyond traditional farm equipment. It now extends to robotics, drones, sensors, etc., in poultry and dairy/cattle barns (i.e., feeding, watering, ventilation, etc.), greenhouses, mushroom facilities, horticulture farms (i.e., with planting and harvesting equipment), tree fruit operations, viticulture, and crop protection equipment.

Failure of machinery during the growing season is a major threat to both the yield and quality of every crop, which are the factors that determine the annual revenues of a family farm business. Compounding all of this is the fact that Canada's growing season is short, which makes time precious. Farmers invest in purchasing extra parts to address mechanical failures in a timely manner when they inevitably occur. However, limited options to address digital warnings or errors that happen in equipment's integrated software mean that farm operations can be stopped for hours, days, or even weeks.

In addition to supporting farmers' livelihoods, modern machinery and implements play a critical role in the efficient use of inputs such as diesel, fertilizer, seed, and crop protection products

¹ U.S. Public Interest Research Group (Feb 1 2022). *Why Farmers Need Right to Repair*.
<https://pirg.org/edfund/resources/why-farmers-need-right-to-repair-2/>

that support production, contribute to emissions reduction, and further improve sustainability on farms.

Limitations on Repairs and the Federal *Copyright Act*

The challenge farmers face is that the current *Copyright Act* prohibits anyone from bypassing Technological Protection Measures (TPMs) that must be accessed to conduct repairs. Only those with access to software provided by Original Equipment Manufacturers (OEMs) have the tools to legally repair equipment. As a result, current legislation is being used to limit the ability of farmers and certified third parties to repair technical issues that occur with modern farming equipment. This has led to concerns from farmers who have had to face operational downtime while they wait for repair services that are solely available from the equipment manufacturers' dealerships. This challenge worsens as equipment ages, having a significant knock-on effect on the used agricultural equipment market in Canada.

Furthermore, while OEMs advertise that their diagnostic software is available to customers, this unfortunately is only available through an annual subscription, which often comes at the cost of thousands of dollars. This undermines the entire right to repair regime, especially since farmers have had the ability for decades to repair their own mechanical equipment using a repair manual provided with the purchase of their equipment. Additionally, these fees add to the increasing costs of running a farm, which results in less money to invest in new technologies.

Challenges to Accessing Repair Parts

In addition, access to parts to repair agricultural equipment is not always easy and have been constrained in recent years due to supply chain challenges. While a producer's closest dealer may be only a short distance away, for many farmers, their closest dealer may not be the one they use or need. Ultimately, farmers have much more limited access to parts and service when repairing a tractor or combine. This problem has also only become worse as third-party repair shops and individuals retire across the country.

The High Cost of Repairing Agricultural Equipment

In 2022, farmers and ranchers in Canada spent \$4 billion on capital and repair expenditures². This demonstrates the importance of third-party or self-repair of equipment as a means of cost control for the farm business. Farmers are "price takers," so they cannot exert influence over the prices they pay or the prices they receive for their production. The success of a farm business exists solely in its ability to manage costs. For this reason, most farmers have invested in themselves to learn how to repair machinery to limit repair costs. TPMs are one of the methods being used to force farmers who can perform repairs to purchase repair services from a dealer.

Forcing the purchase of repair services from a dealer leaves no room for price competition, leaving farmers no choice but to pay the price the OEM is offering for their repair services. It is

² Statistics Canada. (August 8 2024). *Capital and repair expenditures, non-residential tangible assets by industry*. Table: 34-10-0036-01

also impacting the greater rural economy. Rural agricultural mechanics are no longer able to perform their trade as they do not have access to the tools needed to maintain or repair the equipment's software. They are legally prevented from developing their tools due to the legislation preventing the TPMs from being bypassed. The only option for a rural mechanic to operate legally is to work for a dealership. Farmers need an effective and affordable means to diagnose and repair their equipment and not be completely reliant on original equipment manufacturers (OEM) dealerships, which can sometimes be located hours away from farms in rural and remote communities.

Furthermore, OEMs, equipment dealers, and the government have noted for years the labour shortages in heavy equipment mechanics that exist across Canada. These shortages have only made the situation worse, as farmers are forced to seek the assistance of their local dealer for software issues, only to be told they need to wait due to backlogs. Allowing the right to repair in Canada would ease the demand on over-run dealerships as it would again allow farmers to repair their own equipment in its entirety.

From a jurisdictional standpoint, provinces are looking to the federal government to establish an overarching legislative framework, which would then provide some parameters to introduce provincial legislation in this area. However, some provinces aren't waiting. Prince Edward Island, for example, introduced an amendment to the *Farm Machinery Dealers and Vendors Act* this past fall that would require manufacturers to supply farmers with repair manuals free of charge, and supply parts, software, and tools at a fair price. Similarly, Quebec enacted the *Act to protect consumers from planned obsolescence and to promote the durability, repairability and maintenance of goods*, legislation which includes right to repair for farm machinery.

Safety Considerations

Farmers and independent repair technicians prioritize safety as much as manufacturers, and the right to repair is about ensuring access to the necessary tools, parts, and information without compromising these high safety standards. Farmers are not looking to modify their equipment or circumvent safety standards, of which there are already numerous laws in place making it illegal to do so. Farmers have a long history of safely repairing their own equipment, with responsible repairs being a fundamental part of farming culture. Producers possess a clear understanding of the risks involved and consistently take measures to mitigate them. Manufacturer cooperation is essential in this process, as providing official repair manuals and guidelines ensures that repairs are performed correctly and in accordance with the manufacturer's standards. Additionally, making OEM parts available for purchase is crucial for maintaining the safe operation of agricultural machinery.

Conclusions

Farmers' opportunity to capitalize on potential cost savings, invest in better and more efficient machinery and implements, or leverage competitiveness opportunities is lost if Canada's laws continue to exclude or limit a machinery owner from being able to diagnose and repair their equipment.

It is our view that the federal government has a clear role in establishing a legislative framework that strikes a measured and appropriate balance with the intent to create a competitive market for equipment repair that will allow farmers the choice to safely conduct all repairs themselves, through a qualified third party, or through OEM dealerships. Changes could also encourage new business opportunities for Canadians by creating more repair shops in rural communities. Supporting a legislative framework that supports the interoperability of farm equipment will also help competitiveness, drive innovation, and provide cost-effective options for farmers. We continue to be supportive of Bills C-244 and C-294 currently in the Senate and how they can contribute towards fostering right to repair framework for agricultural machinery in Canada. We hope that the content of these bills is considered in the broader framework.

Sincerely,



Canadian Canola Growers Association (CCGA) represents 43,000 canola farmers on issues that impact farm success, and is the largest administrator of Agriculture and Agri-Food Canada's Advance Payments Program. www.cpga.ca

The Canadian Federation of Agriculture (CFA) is the country's largest national general farmers' organization, proudly working for more than 200,000 farm families. www.cfa-fca.ca

Grain Growers of Canada (GGC) is the national voice of 65,000 grain farmers that advocates for the federal government to take decisions that support the competitiveness and profitability of grain growers across Canada. www.graingrowers.ca