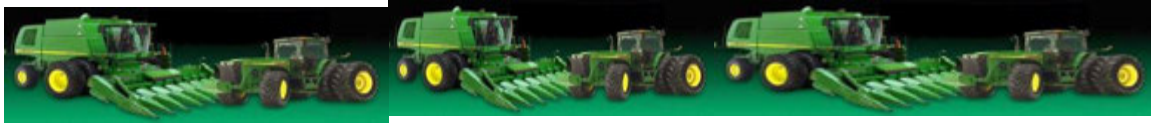




**EGLINTON BROS PTY LTD**



Comment to be submitted to the Productivity Commission re the draft Report on Right to Repair from Malcolm Eglinton,

17/07/2021 To the Productivity Commission

I note with concern that farm machinery which includes tractors, harvesters, platforms, sprayers, seeding equipment, loaders, mowing equipment, hay equipment, & many other items of machinery is listed along with items like mobile phones, household goods etc. The difference in the farm machinery equipment & small electronic items or phones & household goods is immense & they should not be treated in the same manner when it comes to right to repair. I would suggest that the people who are responsible for making this report should meet with myself at my dealership so that we can show you the machinery & describe the many facets of machinery functions & the varied areas of repair as well as the use of software & electronics in machinery. It is concerning to read of the simplistic way that some think that repairs or use of software can be undertaken by people who are untrained in a product line. The reason that we are dealers in a particular machinery franchise with particular products to sell & service is because we have committed to spend money in setting up a dealership premises, employ staff, undertake training, undertake the mandatory purchase of special tools considered essential in order to service equipment & undertaken to spend a large amount of money on spare parts that we keep in stock in order to supply parts to our customers. Those who are requesting the right to repair in a general sense who claim not to have access to some of the items that we have in a dealership do not outlay that sort of financial investment but expect that a dealer or a machinery parent Company will just treat them on the same basis but for free. The comment by certain politicians in this report indicates that they fail to understand the massive difference between a piece of farm machinery & a mobile phone or a household appliance. Before any laws or regulations are made in regard to farm machinery there needs to be a far greater detailed engagement with this industry so that we can personally demonstrate the significant & complicated differences. It is also important to understand the significant damage that can be done to equipment worth hundreds of thousands of dollars or even millions of dollars by those who wish to work on this

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equipment without lengthy training that goes with having the responsibility of a dealership.

The suggestion that software is limited to customers or independent repairers demonstrates the lack of understanding of software in modern machinery. It is not the sort of software that one sees in a phone where one can download an app in order to have another function on a phone. Machinery has multiple controllers or mini-computers which are integrated using the CanBus system of communications, all of which have software that must communicate with other controllers & often in concert with other controllers. It is not a matter of a parent Company withholding software since even dealers cannot just access certain softwares for download without first doing diagnostic work that is then analysed by the Company before any new downloads are allowed. This is to ensure that there is an actual software problem & also to ensure that any new software does not cause a problem with other controllers in the system. This is a simplistic explanation since software is a big subject, but the Commission needs to understand that what is being asked by independent repairers is not like getting an app on a phone but far more serious & can be very costly if not done correctly.

There are some software downloads that machinery Companies will give out free to their customers. For example, on John Deere autotractor displays & receivers there are regular free downloads that customers can access. However, software on controllers on engines, transmissions & other areas often does not need to be updated & do not need to be accessed for an independent repairer to do a repair.

Any person who wants to adjust software is often wanting to redesign software & that is not the right to repair but right to redesign. In one of the examples that the Productivity Commission used from the US quoting John Deere in relation to right to repair, the person quoted in that example wanted to alter software so that they could bypass an oil pressure sensor which amounts to the right to redesign software & not right to repair. This needs to be kept in mind as you consider right to repair. It would appear that many people asking for access to software want the right to redesign software which is modifying a product so that this modifier becomes the manufacturer with all of the responsibilities of future warranty, all of the responsibility for safety issues & all of the responsibility of any machine failures that may occur as a result of that software modification. In

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my reading of this report & the report by the ACCC, I do not see this stated at all by any of the reporting authorities or noted as a major concern. This needs to be noted as a major concern for the consumer or customer since any software modifications that cause a problem are back on to the person who modified the software. I might add that there are a number of people offering software modifications that alter engine performance & numbers of customers are now using such modifications. One wonders where the Productivity Commission & the ACCC puts the responsibility of such modifications that are outside the design of original manufacturer's designs. We note that there is no lock by manufacturers to prevent such modification so the argument that products are locked by manufacturers is not entirely true.

I note on page 1 that it is stated that it is not always preferable or cost effective for consumers to repair their own products. This is true for the more complicated aspects of repair. I would note that in our product lines with John Deere that we have always made technical manuals available for sale & that there is no restriction to accessing repair manual material even on machines that are decades old. The problem for some people is that they do not want to pay for such material but would like it given to them. Parts are always available to customers of any sort so there is no restriction on supply of parts. Special tools are limited in supply since they are not mass produced like normal tools. We who are dealers have to order tools months in advance of new products so that we have them on hand & that is a requirement of being a dealer. We outlay huge sums of money to have these tools on hand & there should not be a mandate that we simply give others access to our investment. This is a part of being a dealer & we do this so that we can offer service in a competitive world. This is a part of what competition is about, yet some of the suggestions seen in the report indicate that aspects of competition are being eroded by the push for right to repair.

Customers & independents have access to technical information & to parts that enables them to do many repair jobs now. Some aspects must remain in the realm of a franchised dealer but there is no need for any law or regulation since customers & independents have access to information & parts now. If a Company is not meeting that requirement for information or parts, competition from Companies that are supplying these will force other companies to follow suit.

There are suggestions in the report that independent repairers or customers should be able to undertake warranty work. As a dealer, we are required to have the training & tools on hand to do warranty work. We also have the systems from the parent company to process warranty work. The warranty work is adjudicated by the parent company & must be since there are many people who would claim that a failure is warranty when in fact it is not. Often those who self diagnose a problem get it wrong & would have something replaced under warranty when it was not the problem. If the suggestion that customers or independents can do warranty work, how would you suggest that this be fairly adjudicated? How would you suggest that a non dealer who does not have the system & process in place to process warranties be paid? How would you suggest that the time & parts costs be calculated seeing that a parent company pays a dealer the price for parts using a credit system & has a standard pricing time frame for any particular job that a dealer claims under warranty? If a customer or independent buys non genuine parts how would the costs be worked out for reimbursement? If the non genuine part is inferior in quality & it fails prematurely will the independent or customer take responsibility for that failure or will they expect the manufacturer to pay for a failure in a part that they did not supply? If the customer or independent gets it wrong or makes a mistake on the warranty job, will they take responsibility for their costly mistake? There are many questions that have not been addressed by the ACCC or the Productivity Commission in regard to the practicalities that go with being a dealer who gives warranty service & is able to work with the parent company versus a customer or an independent doing this work. The suggestion that a customer or independent should be allowed to do major warranty repairs is fraught with unseen problems that have not been addressed & it seems have not been understood by those making these recommendations. We are not referring to simple tasks like replacing a light globe or a faulty belt which a customer can do now, but major items that are complicated & costly.

In our industry the warranty repairs on major items are locked into the dealer for a reason. They have the training & the ability to chase up information relative to a particular failure. This infrastructure costs a lot of money in investment & is not something that can just be turned on for an individual who wants to do a dealer's warranty tasks. Apart from that, any person is able to undertake repairs since there is nothing stopping them. If a person wants to do a repair that a

dealer would normally do under warranty, but they wish to bear the cost of a customer repair or an independent doing the repair there is nothing stopping them. They simply cannot get re-imburement from the dealer or the manufacturer which is fair.

On page 12 of the draft report, there is a paragraph that mentions agricultural equipment. It suggests that there are high costs involved in switching from one brand to another. That is the reality of a competitive market. Yet a little further in this paragraph, the suggestion is made that there is weak competition in this market. If you want strong competition, then let the market alone. The suggestions that have been made by the ACCC & the Productivity Commission in this report will only undermine competition, drive up prices to cover the extra costs associated with the mandated requirements if this comes to pass & cause some dealers to be driven out of business due to higher costs & more red tape & so reducing the number of dealers that a customer can choose to do business with.

I have read that some think that dealers use the repairs to make massive profits. This shows a complete lack of understanding of this industry. All the departments of a dealership make up the profitability of a dealership & all are necessary for a dealership to be viable. Sales alone do not build a dealership. People buy a product for a good product, but they also then look for good parts & service backup. If that is lacking competition will send them to a better dealership. Most farmers know this & are satisfied with the sales & service that a dealership provides. Only a small minority of farmers would ask for some of the things suggested in this report. The majority of farmers do not want a dealership to fail & so no longer be in their town or district. Rural & Regional towns rely upon a viable, good dealership, close to their farming operation to provide reliable sales & service. These dealerships often are businesses that support the community & give employment to people in that community. This very important aspect needs to be considered by the Commission in its deliberations.

On page 14 there is a mention of a manufacturer or dealer requiring that the parts for warranty be supplied by a manufacturer for a warranty claim. This is a commonsense requirement since many non genuine parts are inferior in quality & if the manufacturer is paying the dealer to fit parts under warranty it is only

reasonable to expect that parts that the manufacturer considers are to the standard of quality for their products be used. The manufacturer is paying for the replacement part & so there should not be any extra cost to the customer. If a customer or an independent replaces a genuine part with an inferior part & that part fails & causes damage to other parts how can a manufacturer be then held accountable for the failed non genuine part? Will the customer or independent then be held accountable for the cost of such a failure & not come back to the manufacturer? I suspect that the customer or independent would suggest that the manufacturer should still pay for a subsequent failure of a part that the manufacturer did not supply.

On page 17 there is a section that speaks of obsolescence. In this industry, most products last for decades. Many of the parts are still available for many of those products. This is not an issue in farm machinery.

Manufacturers & authorised dealers support farmer's ability to identify & repair their own machines. However, there must be a recognition that to repair agricultural machinery one must have a high degree of training & expertise in order to do this correctly & cost effectively. The safest & most cost effective way for repairs to be carried out is through an authorised dealer who has invested significant amounts of time & money in training staff & putting tools & parts into that business for the benefit of their customers.

This industry is small & the participants in each market will be well known to their customers. Hence service, repairs & parts will be priced competitively. Anyone who has been in country areas & investigated this industry will know that there is keen competition among the various dealers & so pricing & all service aspects are going to be very competitive. This is in contrast to the perception that is given in the ACCC Report & the Productivity Commission Report where some are making it seem that there is a lack of competition & a lack of competitive pricing. This is a minority view & a false perception.

The ACCC has made recommendations as has the Productivity Commission. If these recommendations are implemented in the agricultural machinery industry, then there may well be major safety concerns which arise. The right to repair does not mean a right to modify as I have noted earlier. Many of those who wish to do their own repairs or use independents do not have the understanding or

capability to undertake many of the repairs on farm machinery that are of a more complex nature. I would like to know who will be responsible for any safety issues that arise or any major failures in the components if the recommendations are adopted & issues like this arise?

Dealerships & farmers are based in rural & regional areas where the populations are far less than cities or major rural towns. Dealerships in these areas are employers, supporters of local communities, & a part of the local economies. If the recommendations from the ACCC & the Productivity Commission are adopted, then it will have an impact on the costs to dealerships & ultimately on the farming community. It may well see less competition as smaller dealers are forced out of business & swallowed up by large corporates. This will mean less competition & greater distances for farmers to travel in order to get sales, service, repairs & parts. I am sure that this is not the aim of the ACCC or the Productivity Commission, but it will be the inevitable outcome if these recommendations in their current form are implemented. I can only urge the Productivity Commission to exclude Agricultural Machinery from these recommendations & simply allow competition & the current market forces to apply. Both dealers & manufacturers support the right to repair & offer support to customers within the bounds of that which is practical, cost effective & realistic & such support is currently the case in the marketplace. We do not need legislation or regulation from Government bodies to bring about right to repair since that is already available in the marketplace.

From Malcolm Eglinton  
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