

**Victorian
Farmers
Federation**

SUBMISSION

Productivity Commission Right to Repair

February 2021

INTRODUCTION

The Victorian Farmers Federation (VFF) welcomes the opportunity to comment on the Productivity Commission's inquiry of the right to repair.

For the purposes of this submission, the VFF will be focusing on the agricultural machinery industry.

Agricultural machinery has become an increasingly vital component of modern agricultural production, responsible for substantial gains in farm productivity and efficiency. From sowing to harvest, agricultural machinery is critical at all stages of cropping and horticulture production cycles. Additionally, many animal industries are also becoming increasingly mechanised through the use of technologies such as rotary dairies and automated egg grading production systems.

Furthermore, agricultural machinery represents a significant financial outlay for many farm businesses, involving substantial upfront and on-going costs.

Yet purchasers of agricultural machinery are afforded very few consumer protections and the agricultural machinery after-sales market is very lightly regulated in comparison to many equivalent industries.

While many individual dealers and manufacturers provide excellent products and service, there remain very few avenues of recourse for consumers in the event something goes wrong.

The VFF strongly supports the need for greater competition and consumer protections industry-wide within the agricultural machinery after-sales market.

Discussion:

INFORMATION REQUEST 2

a) What types of products and repair markets should the Commission focus on?

b) Are there common characteristics that these products share (such as embedded technology and software or a high/low degree of product durability), and which characteristics would allow policy issues to be considered more broadly?

c) If there are particular products that the Commission should focus on, what are the unique issues in those product repair markets that support such a focus?

The VFF urges the Productivity Commission to focus on the agricultural machinery market which is characterised by high levels of embedded technology and limited levels of consumer protection or market competition.

Currently, agricultural machinery over \$40,000 bought for use in agricultural businesses are excluded from the Australian Consumer Guarantee.

While federal, state and territory ministers have voted at the Legislative and Governance Forum on Consumer Affairs to increase the threshold from \$40,000 to \$100,000, this increase will continue to exclude a large percentage of agricultural machinery. For example, a new header which is required to harvest grain will often cost \$800,000-\$1,000,000.

Importantly, being excluded from the Australian Consumer Guarantee means that there are very few avenues of recourse in the event that something goes wrong. Unlike many other industries that are highly mechanized such as mining, the majority of agricultural businesses are small family-owned businesses, resulting in limited bargaining power against dealers and multinational manufacturers.

Furthermore, many agricultural machinery sales agreements currently limit competition by permitting only authorized dealers to conduct after-market services.

This can be challenging for farmers who live long distances from dealerships or during peak periods, when waiting for an authorised dealer to diagnose and fix a problem during harvest could mean days or weeks of lost production.

Additionally, for certain highly specialised machines such as egg production equipment there may be no authorised technicians in Australia.

Information request 3

a) Do the consumer guarantees under the ACL provide adequate access to repair remedies for defective goods? If not, what changes could be made to improve access to repair remedies? Are there barriers to repairing products purchased using new forms of payment technologies, such as ‘buy now pay later’?

No, as noted above, the Australian Consumer Guarantee excludes a large percentage of agricultural machinery.

Instead, purchasers of agricultural machinery are largely reliant on individual manufacturers’ warranties which vary significantly from manufacturer to manufacturer.

Highlighting the arbitrary eligibility criteria for the consumer guarantee, while agricultural machinery is excluded, business vehicles and trailers are covered by the Australian Consumer Guarantee, irrespective of cost, provided they are used mainly to transport goods.

b) Is the guarantee of available repair facilities and spare parts effective in providing access to repair services and parts? Or is the opt-out clause being widely used, making the guarantee ineffective?

Timely access to spare agricultural machinery parts remains a key challenge for our members.

Dealers and manufacturers have moved to a ‘just in time’ for much of their inventory. While some shortages are to be expected during peak periods, it has increasingly become commonplace for growers to be forced to pay for individual parts (even in current models) to be air freighted from overseas, rather than being imported in bulk by the dealers and manufacturers at a much cheaper rate.

It is important to note that as producers of perishable goods, farmers are captive consumers during key production periods such as harvest as a delay of even a couple of days can cost tens of thousands of dollars in lost milk or egg production or damaged crops, as well as potential animal welfare concerns for mechanised animal production systems, limiting farmers’ to ability negotiate better terms.

Indeed, so widespread is this issue that at the 2019 VFF Grains Conference, a resolution seeking an improved outcome on parts availability was passed unanimously.

Furthermore, this poses a broader food security risk in the event an international emergency. COVID-19 has highlighted the vulnerability of the global supply chain, with farmers already struggling to access parts. Delays in access to spare parts during key production cycles could have a disastrous impact on Australia's food production and therefore it is in Australia's national interest to ensure sufficient stocks of machinery parts are stored onshore, especially for machinery used in the production of staple food items such as eggs, milk and grain.

To address this issue under the *Farm Implement Law*, in Alberta, Canada every sales agreement of a new farm implement is deemed to contain a warranty that a sufficient supply of repair parts for the farm implement will be made available for a period of 10 years from the date of the agreement.

The VFF would urge that similar requirements be implemented in the Australian market.

d) Are consumers sufficiently aware of the remedies that are available to them, including the option to repair faulty products, under the ACL's consumer guarantees? If not, would more information and education be a cost-effective measure to assist consumers understand and enforce guarantees? What would be the best way to deliver this information? What other measures would be more effective?

No, individual warranties for agricultural machinery are often detailed in long sales contracts which are difficult to understand, resulting in many purchasers being unaware of their rights.

Finding a similar issue for consumers in the automobile industry in the final report of a market study of New Car Retailing Industry, the ACCC stated the importance of consumers being aware of their rights:

'a good understanding of consumer guarantees and warranty rights will therefore help consumers to make informed decisions during and long after their purchase of a new car'.

The ACCC committed to working with manufacturers and dealers to develop a summary of consumer protections which would be provided to consumers at the point of sale of a new car.

The VFF would urge the ACCC develop a similar summary of consumer rights for agricultural machinery.

Information request 4

c) Are there specific examples or other evidence of practices by OEMs or their authorised repairers that create barriers to competition in repair markets?

Many agricultural machinery sales agreements currently limit competition by permitting only authorized dealers to conduct after-market services.

Allowing other companies to provide after-market services could enhance competition and improve consumer outcomes. As noted in the ACCC's final report of the New Car Retailing Market Study, "the competitive discipline imposed by independent repairers on the after-markets for the repair and servicing of new cars remains valuable and of benefit to consumers, and that consumers also benefit from having a choice of providers to repair and service new cars." The report found that approximately one in ten new car buyers have their car repaired or serviced with an independent repairer and it is important farmers are afforded the same options.

The VFF urge that purchaser's 'right to repair' be created to remove restrictions which may prevent the owner of agricultural machinery or using a contractor of their choice from making repairs to that product themselves. It is important to note that many farmers are qualified mechanics and have extensive workshops. This is especially critical for specialised industries such as the egg industry where there are no authorised technicians in Australia.

Barriers to the repair of farm machinery are a serious and longstanding issue for the Australian farming sector. These barriers have become more pronounced as the machinery used by farm businesses has become more sophisticated in terms of both design and embedded technology.

Whilst the VFF acknowledges that dealerships have invested significant funds into training, parts, tools and equipment and they deserve to have a return on that investment, this should not be a reason to limit competition.

INFORMATION REQUEST 8

a) What policy reforms or suite of policies (if any) are necessary to facilitate a 'right to repair' in Australia?

The VFF recommends that:

- the Australian Consumer Guarantee is amended to include agricultural machinery and that agricultural machinery warranties be prohibited from permitting only authorized dealers to conduct after-market services.
- A 'right to repair' be created to remove restrictions which may prevent the owner of agricultural machinery or using a contractor of their choice or making repairs to that product themselves.

b) Are there any other barriers to repair and/or policy responses that the Commission should consider?

While there are a range of agricultural machinery dealerships in Victoria, geographical restrictions can effectively render purchasers of agricultural machinery a captive market when buying certain brands, inhibiting their ability to shop around for better prices or service. Indeed, many farmers have provided the VFF with examples where they were directly told by dealers that they were unable to purchase outside their area, or have struggled to get agricultural machinery fixed by a dealer if it wasn't purchased locally.

Similarly, farmers that are unhappy with the level of service they are receiving from a dealer often have little option but to continue buying from the dealer to access specific machinery brands.

When buying a car or heavy vehicle, consumers will often visit a number of dealerships to ensure they are getting the best price or service, yet these same options are not afforded to farmers purchasing agricultural machinery.

To allow the market to effectively function and ensure the best outcomes for consumers, it is therefore critical that geographic restrictions are lifted on machinery dealerships.

The Victorian Farmers Federation

Victoria's agricultural production accounts for over \$13 billion of Victoria's economy and over 25 per cent of the State's exports per annum. Victoria's farmers produce high quality food and fibre, produced to high standards of safety, with little taxpayer support, and to some of the strictest environmental and highest animal welfare controls in the world.

The Victorian Farmers Federation (VFF) represents the Victorian farming community which endeavours to ensure a profitable, sustainable and socially responsible agriculture sector connecting with consumers.

We have a proud history representing Victoria's farm businesses since 1979 – primarily family farms that produce the eggs, grain, fruit and vegetables, meat, and milk that help to feed Victoria's six million people, and the bigger global community, every day.

The VFF consists of commodity groups: dairy (United Dairyfarmers of Victoria), grains, horticulture (including Flowers Victoria), intensives (chicken meat, eggs and pigs), and livestock – and expert committees representing; water, land management, agricultural and veterinarian chemicals, farm business and rural development, and workplace relations.

Our purpose is to make Victorian farmer's lives better; enhancing Victoria's future.
Our mission is to ensure a community of farmers creating a profitable, sustainable and socially responsible agricultural industry connecting with all Victorians.



Our place in Victoria

What we do



- Victoria's **20,775 farms** cover **10.6 million hectares**
- We are **24.2%** of Australian farmers
- **91%** family operated, with only **2%** foreign owned







- We employ **87,800** people mostly in regional areas
- **\$4739** of food consumed each year by every Australian
- As a net exporter we have long term food surty







- Our annual production is **\$13.16 billion**, **3.5%** of Victoria's economy
- **27.8%** of Victoria's exports are agricultural product valued at **\$11.9 billion**

How we do it



-  Farmers invest **\$80 million** in R&D
-  Every R&D **\$1** converts to **\$12** in farmer generated impact
-  **2.7%** productivity growth through innovative efficiency gains
-  Farmers receive less than **1.5%** in government support



-  **63%** reduction in greenhouse gas emissions between 1996-2016
-  Water consumption reduced by **7%** from 2014-2015
-  Land conservation has increased to **18%** of total land mass.
-  Farmers spend **\$20,000** annually on feral animals and pest weeds



-  **3.5 million** beef cattle
-  **140 million** chickens
-  **1.1 million** dairy cows producing **6.186 billion** litres of milk
-  **65,992** sows
-  **13.1 million** breeding ewes and a fleece clip of **66,100 tonnes**
-  **6.5 million** tonnes of grain
-  **\$2.35 billion** in horticultural production