



# Remaining competitive internationally and fostering innovation here at home

Brief submitted to the House of Commons Standing Committee on Industry, Science and Technology for its study on Competitiveness in Canada

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## Background

In today's digital environment physical product design is becoming increasingly reliant on software, networking and computerisation. From an agricultural manufacturing perspective, this means that many pieces of industrial equipment are required to interoperate, often as a network of digital and analog components. This includes the mechanical interface, hydraulic components, onboard computer and sensors.

## The challenge: Interoperability in the 21st century

**“U.S. copyright law makes exceptions for legally modifying motorized agricultural equipment for the purpose of interoperability. Canadian copyright law does not provide these exemptions, making it illegal for Honey Bee or any Canadian company to reverse engineer platforms to achieve interoperability.”**

— AMC member Honey Bee at the House of Commons Industry committee in February 2020

The lack of clear rules in Canada permitting Canadian ag manufacturers to make interoperable equipment is preventing Canadian industry from reaching its full innovative potential. Furthermore, IP inconsistencies between Canada and the U.S. have created a significant competitive disadvantage for Canada's ag manufacturing industry. Similar to their U.S. competitors, Canadian ag manufacturers need to be able to "reverse engineer" the products of original equipment manufacturers (OEM) in order to produce equipment that is interoperable for Canadian farmers. This would allow them to innovate a variety of products that help Canada's agricultural sector do more with less while addressing important public policy issues such as climate change.

Just over 50 per cent of AMC's manufacturing members are located in rural communities of fewer than 10,000 people. Without changing intellectual property rules to put Canadian and American manufacturers on an equal footing, Canada's rural communities will lose an essential employer, severely decimating local economies.

## Lack of harmonization with U.S. a barrier for Canadian ag manufacturers to remain competitive

Agricultural manufacturers need clarity on interoperability not only to thrive in a competitive global economy, but also to survive as small businesses employing thousands of Canadians.

The lack of clarity is a severe barrier to innovation, competitiveness and economic growth.



AMC's 250 member companies are export powerhouses, generating \$2.3 billion of exports every year to 154 countries — 78 per cent of which is to the United States. Exports to the U.S. have grown more than 50 per cent over the last decade. Without clarity, Canada's agricultural manufacturers risk losing a competitive edge as producers of the highest quality and most sought-out agricultural equipment in the world.

The Copyright Act must be updated to reflect how technology has changed.

There are exceptions for interoperability under the Copyright Act, but they are too unclear to enable innovation.

As technology increases in everyday applications, the problem continues to grow. In essence, any piece of technology can potentially become an infringement on copyright. This is even more prevalent from a competitiveness angle because of the lack of harmonization with U.S. copyright laws.

Innovation and market access for Canadian manufacturers abroad, especially the U.S. — our single largest market — becomes even more difficult.

It is imperative for the federal government to carefully address this interoperability issue in order to support a truly innovative, export-oriented and job-creating Canadian agricultural manufacturing sector that is well-positioned to contribute to our country's post-pandemic economy.

## Recommended solution

**The federal government, in its upcoming move to amend the Copyright Act to implement term extension under CUSMA, should provide clarity on the nature and scope of the interoperability exception to the prohibition on technological protection measures (TPM) circumvention, including a comprehensive definition of 'interoperable.'**

**This can be done quickly and easily in an omnibus legislation such as a Budget Implementation Act.**

Canada's statutory framework for interoperability under the Copyright Act is emblematic of an era prior to widespread computerisation and software integration in a myriad of products and machinery. In the context of modern machinery, innovation and networked components, a more inclusive approach is needed that enables innovation.

Providing the agricultural manufacturing industry with clarity will ensure Canada is well-positioned to foster an innovation environment with as few impediments as possible to producing world-leading products, services and technologies.