

Federal Trade Commission
Petition for Rulemaking of PIRG and iFixit
FTC-2023-0077-0001
Comments of
American Farm Bureau Federation
February 1, 2024

The American Farm Bureau Federation (“AFBF”) has been an active and vigorous proponent of the right of farmers and ranchers to repair agricultural equipment, and to enlist the aid of independent repair facilities as necessary. AFBF understands that Federal Trade Commission (“FTC” or “Commission”) rules now require the Commission to publish all petitions for comment. This comment is filed to provide an accurate record and not intended to discourage the FTC’s interest in the underlying issues.

AFBF’s activity to secure meaningful rights for farmers and ranchers to use, repair, and update their own agricultural equipment has been in both official and private sector undertakings.

In the “2018 Round” of the Copyright Office’s triennial “exemption rounds” under the Digital Millennium Copyright Act (“DMCA”), [AFBF’s comments](#) included six sworn declarations – of farmers, a software engineer, and a professional mechanic – plus an AFBF summary declaration, detailing the challenges that farmers faced, and what might be done under existing law to provide and protect a right to repair.

- The information collected and compiled by AFBF provided a substantial basis for the Register’s recommendation,¹ and adoption by the Librarian of Congress,² of DMCA exemptions in aid of farmers’ right to repair their equipment.
- The AFBF comments and the included declarations were also heavily relied upon in the U.S. Department of Commerce’s National Telecommunications and Information Administration (“NTIA”) letter recommending an expanded DMCA exemption.³
- In particular, the AFBF comments and the declarations were cited by both the Register⁴ and the NTIA⁵ as prime bases for expanding previous exemptions to recognize independent

¹ Register’s Recommendation, Oct. 5, 2018, pp. 184 – 192 and 222 – 230, https://cdn.loc.gov/copyright/1201/2018/2018_Section_1201_Acting_Registers_Recommendation.pdf

² Final Rule, Oct. 26, 2018, <https://www.govinfo.gov/content/pkg/FR-2018-10-26/pdf/2018-23241.pdf>

³ Letter from David Redl, NTIA Administrator, Sept. 25, 2018. (“NTIA Letter”), pp. 55 – 61, https://cdn.loc.gov/copyright/1201/2018/2018_NTIA_DMCA_Letter.pdf

⁴ See, e.g., Register’s Recommendation at 223: “Farmers petition the Office to expressly include language permitting third-party assistance for agricultural equipment.”

⁵ See, e.g., NTIA letter notes 284, 291 (observes that exemption aids implementing an MOU), 302, 303.

technicians, working at the direction of farmers, as “users” under the DMCA, hence entitled to the benefits of a farmer’s exemption.

- AFBF has participated in each successive Copyright Office exemption round to protect user exemptions from proposals to contract them, and to maintain the Copyright Office’s position that the Register has recommended user exemptions to the full extent of its jurisdiction.

AFBF on its own initiative undertook negotiations with each of the major manufacturers of agricultural equipment sold in the U.S., to achieve with each a memorandum of understanding (“MOU”) tailored specifically to the equipment, technology, and software of each manufacturer:

- On January 8, 2023, AFBF and John Deere [announced](#) a [memorandum of understanding](#) for update and repair, in the field whenever possible, on an ongoing basis. Deere’s commitments are laid out with specific reference to Deere’s own equipment, technology, and software packages, as well as generally.⁶
- On March 9, 2023, AFBF [announced](#) a similarly specific, tailored, and ongoing⁷ [MOU](#) with CNH Industrial, manufacturer of Case IH and New Holland farm equipment.
- In 2023, AFBF also signed similarly specific MOUs with [Agco](#), [Kubota](#), and [CLAAS](#), with the aggregate MOUs covering approximately [75 percent](#) of the agricultural machinery sold in the U.S.⁸

In this Commission proceeding a record will be built as to problems as well as progress with respect to right to repair.⁹ However, AFBF takes strong exception to the Petition’s assertions on page 47 as to intentions and motives of MOUs in general and, in particular, those

⁶ “John Deere commits to engaging with farmers and dealers to resolve issues when they arise and agrees to meet with AFBF at least twice per year to evaluate progress. The agreement formalizes farmers’ access to diagnostic and repair codes, as well as manuals (operator, parts, service) and product guides. It also ensures farmers will be able to purchase diagnostic tools directly from John Deere and receive assistance from the manufacturer when ordering parts and products.” In December 2023, Deere [announced](#) an enhancement to remote provision of software tools.

⁷ “The MOU sets a framework for farmers and independent repair facilities in all 50 U.S. states and Puerto Rico to access CNH Industrial brand manuals, tools, product guides and information to self-diagnose and self-repair machines, as well as support from CNH Industrial brands to directly purchase diagnostic tools and order products and parts.”

⁸ As the Petition does note accurately, these are MOUs rather than documents enforceable in court. AFBF, as a voluntary membership organization, has no legal power to bind the conduct of its members, hence could not act on a contractual basis on this subject. The value of these commitments will be measured by progress in fulfilling and expanding on them as AFBF continues to work with these and other manufacturers.

⁹ AFBF notes that many of the Petition’s footnoted technical references pre-date the MOUs.

cited in the Petition. Both the FTC and iFixit have praised a prior MOU as a model, and both the FTC and iFixit have encouraged manufacturers and private sector groups to *pursue industry and manufacturer-specific MOUs*.¹⁰

When AFBF's members charged the organization with outreach to equipment manufacturers on the right to repair, they expressed a preference for private sector, market-based solutions over legislation. AFBF's members believe it is about sitting down at the table and sorting things out, which is what was done and what will continue to occur under the MOUs.

AFBF is proud of the agreements it has reached with the agricultural equipment manufacturers, and will continue working with other manufacturers as well, to ensure all farmers have access to the tools necessary to keep their equipment running, and to keep food on the table for families across America.

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¹⁰ See, *Nixing the Fix: An FTC Report to Congress on Repair Restrictions*, May, 2021, at 46 – 47, https://www.ftc.gov/system/files/documents/reports/nixing-fix-ftc-report-congress-repair-restrictions/nixing_the_fix_report_final_5521_630pm-508_002.pdf.