



February 7, 2018

Dear Senator Sirotkin and Members of the Committee:

Thank you very much for your attention and consideration at your hearing today.

As follow up – I’ve attached a few items for your use.

1. NEDA referenced a recent press release from the American Equipment Manufacturer’s Association (AEM) and the Equipment Dealers Association (EDA) announcing their intention to allow equipment owners to fix their equipment in 2021.

<https://www.aem.org/news/february-2018/aem-eda-announce-statement-of-principles-on-right-to-repair/>

This announcement is not an Agreement, (thus my outburst, for which I apologize) but a carefully worded statement providing the appearance of cooperation without any actual cooperation. Nothing changes for farmers now or in five years. Farmers will still be limited in the types of repairs they are permitted to make on their legally purchased property, and those where they must still contact the dealership.

It is worth noting that the Auto Industry made similar “We’ll Allow Repair” claims in the build up to legislative action. It was not until after statute was passed that they were actually cooperative.

2. Other legislatures have trimmed the scope of their bills to focus on action that they feel is reasonable today. For example, Washington State has substantially limited the scope of their bill – and also added a prohibition against selling products where batteries are permanently affixed (aka glue).

<https://legiscan.com/WA/text/HB2279/2017>.

WA passed HB 2279 out of committee despite huge opposition from Microsoft – which happens to make a tablet product that is glued together and impossible either repair or recycle. Other states have focused on other product categories – such as Wyoming which passed an Farm and Ranch equipment bill in their AG committee last session – just recently refiled

<https://legiscan.com/WY/text/HB0091/2018>

3. The US Copyright Office recently released two extensive studies at the request of Congress related to repair and maintenance. They are full of detail about why exemptions have been

granted for repair, unlocking, and even permission for equipment owners to modify and tinker with their property.

Embedded Software Study <https://www.copyright.gov/policy/software/software-full-report.pdf>

Section 1201 (Digital Locks) Study <https://www.copyright.gov/policy/1201/>

While not easy reading – the legal arguments supporting legal repair without infringement are clearly made and supported by both studies. Consumers are being subjected to unfair and deceptive contracts which remove their legal rights to control their property. The USCO specifically notes that states control general business law and consumer protection falls to the states.

4. Cyber Security does not intersect with repair – despite many opponent references to vulnerabilities. Hacking is a problem of network security – not repair. Millions of insecure gadgets are being attached to networks, including “smart” coffee pots, refrigerators and toys, most of which lack any security and have become easily exploited targets.

Security experts at NIST and elsewhere advocate nationally that consumers needs to have more access to reset their network and embedded security passwords and add new security services rather than allow “Security Through Obscurity”. Further S 180 includes a provision that security functions are respected and should remain secure – relying upon whatever suitable security validation function already exists for repair technicians.

NIST <https://www.nist.gov/news-events/news/2017/12/update-cybersecurity-framework>

Please let me know if you have questions and if I can be of any assistance.

Regards,

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