

Canadian Seed Sector Satisfaction with Royalties and Regulations

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Context

Canada's certified seed sector is a key driver of agricultural innovation. Commercialization of new crop varieties greatly contributes to increased food production and improved global food security. Both public and private R&D results in new plant varieties with improved agronomic and quality traits. As a result, the number of plant variety protection (PVP) certificates that provide legal protection to new varieties has increased. Canada's Plant Breeders' Rights (PBR) Act is the main regulatory framework for governance of intellectual property rights (IPRs), and provides individuals, companies, and institutions with a mechanism by which they receive royalties for their plant breeding investments. To encourage additional investments in plant breeding and incentivize private R&D, Canada amended its PBR Act in 2015 to conform to the 1991 UPOV Convention. UPOV-91 grants stronger variety protection for plant breeders while preserving Farmers' Privilege under which farmers can save and sow their own seed of PBR-protected varieties [1].

We conducted a survey of seed growers in Western Canada to learn about a number of regulatory issues surrounding the seed sector. The results cover a sample of 155 respondents, 32% of them are located in Alberta, 40% in Saskatchewan, and 28% in Manitoba. Surveyed seed producers grow mainly cereals (91%), pulses (71%), oilseeds (38%) and forages (18%).

Performance of the Royalty System

Royalties are payments that owners of IPRs, such as PBRs holders, are legally entitled to as a condition of access to the seed. Farmers pay a royalty when purchasing new seed of PBR-protected varieties (certified seed) to plant. Surveyed seed growers were asked about their satisfaction level with the current royalty assessment system for the varieties they produce. The neutral response (Neither dissatisfied nor satisfied) accounts for the leading response rate for cereals, oilseeds, and forages, while the greatest degree of dissatisfaction is for royalty rates for oilseeds.

In 2019, AAFC started consultations about setting up a system that require farmers who plant new cereal varieties to pay an annual royalty. These additional payments will be used to fund private investment in plant breeding. Farmers had to choose between: *End Point Royalties* paid on the crop produced from farm-saved seed, or *Trailing Contracts* in which royalty paid on seed planted each year. Our survey results show that 40% of the sample participated in the public consultation on the royalty collection options on UPOV-91 PBR varieties. Among them, 40% think that the adoption of end-point royalties would benefit their operation, and 34% think that trailing royalties would do so. Those divided opinions are similar to those generated from the AAFC's consultation where farmers fell into: (i) those who oppose the two proposed royalty options in favor of continuing publicly funded plant breeding; (ii) those who support one or both royalties, (iii) and those who encourage further plant breeding but unsure about the role of private companies [2].

Satisfaction with Seed Regulation

The CFIA is the certifying federal agency responsible for the administration and enforcement of the Seeds Act—that sets out the broad parameters of Canada's seed regulatory framework, and the Seeds Regulations—that detail the requirements for compliance. Established in 1904, the Canadian Seed Growers' Association (CSGA) is the national body responsible for prescribing varietal purity standards and certifying all agricultural crops except potatoes as per the federal Seeds Act and Regulations. Since establishment in 1905, both the Seeds Act and Seeds Regulations have undergone occasional amendments. Eighty-six percent of respondents believe the current seed regulatory requirements do not limit their ability to produce new seed varieties. Only 14% indicated that seed requirements are moderately or highly limiting factors to their business.

A review is being conducted that spans 2021-2023 to modernize seed regulations. The CFIA conducted the seed regulatory modernization (SEED-RM) process to understand what amendments are needed to improve the Seeds Regulations. That survey reported that respondents were generally satisfied with the Seeds Regulations, while supporting some changes to improve the existing rules [3]. Forty four percent of surveyed seed producers indicated that they participated in the federal survey, 48% did not and 8% they don't know. Forty percent of the participants think that the outcomes of the assessment will meet their needs while 42% are uncertain.

Summary

The CFIA's initiative to amend the seed regulation is a good step to respond to some issues. The results will determine how Canada's seed system will change and to what degree the government or industry will be responsible for regulating aspects of the Canadian seed sector. There is no doubt that regulatory changes should take into account farmers' priorities. Farmers who nurtured plant diversity by breeding and saving seeds to sustain communities were the first to develop seed systems. Modernization efforts should not result in eliminating or completely privatizing key public protections and services that benefit farmers, including seed growers.

References

1. Government of Canada. *Archived - Questions and Answers: Agricultural Growth Act: Updating the Plant Breeders' Rights Act in Canada*. 2014 01/15/2022].
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3. Canadian Food Inspection Agency. *What we heard report: Consultation on the seed regulatory modernization needs assessment survey for seeds and seed potatoes*. 2022 04/26/2022]; Available from: <https://inspection.canada.ca/about-cfia/transparency/consultations-and-engagement/what-we-heard-report/eng/1639504795130/1639504795539?wbdisable=true>.