

Bill C-18 would expand the neonicotinoid market

If Bill C-18, the *Agriculture Growth Act*, becomes law it will help build and reinforce the corporate agribusiness platform for co-selling, cross-promotion and tied-selling of neonicotinoid insecticide seed treatments and other seed-based products.

Monsanto's packaging of genetically modified corn, soy and canola seed with its brand-name glyphosate herbicide is the probably the most well-known expression of this sales strategy, but neonicotinoid producers, Bayer and Syngenta, also co-sell chemical products with their seed. Bayer, with 32 registered canola varieties, sells its "Liberty-link" canola seed to go with its brand of glufosinate herbicide. Syngenta, which breeds corn and soybean varieties, sells the seed pre-treated with neonicotinoid seed treatment. According to its annual report, Syngenta's seed treatment sales volume increased 13 percent in 2013, with significant growth coming from Canada. Bayer not only sells neonicotinoid seed treatments under its own brand names, but has also licensed its imidacloprid neonicotinoid to Monsanto to sell under its brand, Acceleron. Bayer's 2013 annual report states that its 5% growth in North America in spite of a reduction in actual seed sales is due primarily to its corn and soybean seed treatment business along with increased herbicide sales.

The *Competition Act* defines tied selling, but discourages it only if it could prevent other companies from competing in the market. It is silent on protecting the customer's right to obtain a product as a stand-alone item, other than in the case of financial services where tied selling is prohibited.

"tied selling" means:

- (a) any practice whereby a supplier of a product, as a condition of supplying the product (the "tying" product) to a customer, requires that customer to
 - (i) acquire any other product from the supplier or the supplier's nominee, or
 - (ii) refrain from using or distributing, in conjunction with the tying product, another product that is not of a brand or manufacture designated by the supplier or the nominee, and
- (b) any practice whereby a supplier of a product induces a customer to meet a condition set out in subparagraph (a)(i) or (ii) by offering to supply the tying product to the customer on more favourable terms or conditions if the customer agrees to meet the condition set out in either of those subparagraphs.

- *Competition Act*, Section 77 (1)

Most of Canada's corn, soybeans and canola are genetically modified varieties that contain patented gene sequences, allowing the companies that own the patents to control access to the seed. If farmers save part of a GMO crop for use as next year's seed they would violate the patent owner's rights. Consequently, the only source for new seed of GMO varieties is through the patent-holding company or its licensee.

Bill C-18 would provide companies with a way to control access to new varieties of non-GMO crops, including cereals and pulse crops, by providing for enhanced, UPOV '91-compliant Plant Breeders Rights (PBR) protection. If Bill C-18 passes, breeders will gain exclusive control over new varieties for 20 years, as well as 20 years' exclusive control over varieties "essentially derived" from its PRR-protected varieties. (The bill's farmers' privilege provision to allow farmers to save seed for their own use on their own land is tenuous, as the Bill also allows the government to claw back the farmers' privilege by passing new regulations.) Bill C-18 would, in effect, provide seed companies with legal tools to require farmers to purchase new seed every year, while nothing prevents them from offering only seed that is treated with their own products – and of course, to charge more for the treated seed. Syngenta and Bayer plan to expand their cereal crop breeding activities, and both also sell neonicotinoid seed treatments for cereal crops: Cruiser Maxx (Syngenta) and Gaucho and Stress Shield (Bayer).

Bill-C-18, in conjunction with other recent seed sector regulatory changes and federal funding cuts to public breeding, facilitates *de facto* tied selling of seed-treatments, which has implications for both farmer autonomy and ecology. With fewer options for using farm-saved seed, buying pedigreed seed from independent seed growers or buying public domain common seed from other farmers, the seed companies obtain a very solid platform for tied selling of seed treatments, brand-name herbicides and fertilizers.

In 2014, approximately 29 million acres were seeded to predominantly GMO crops (canola, corn and soybeans), 33 million to cereals and 7 million to pulse crops. For the global seed and agro-chemical companies, Bill C-18 holds out the prospect of obtaining access to an annual seed and seed treatment market for most cereal and pulse acres. (See Figure 1 on page 8)

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The landscape impacts of mass adoption of seed treatment formulations due to the lack of few available alternative seed sources are significant.

Health Canada's Pesticide Management Regulatory Agency requires users to apply pesticides according to label specifications. The labels for neonicotinoid seed treatments say these insecticides may contaminate groundwater, particularly in areas where soils are permeable (e.g., sandy soil) and/or the depth to the water table is shallow. The labels also state that these chemicals are toxic to bees, wildlife, aquatic organism, birds and small wild animals and instruct users to keep them out of lakes, streams, ponds or other aquatic systems. It is difficult to comprehend how a farmer could avoid contaminating groundwater, and thus aquatic systems, if virtually all available seed for major field crops was treated.

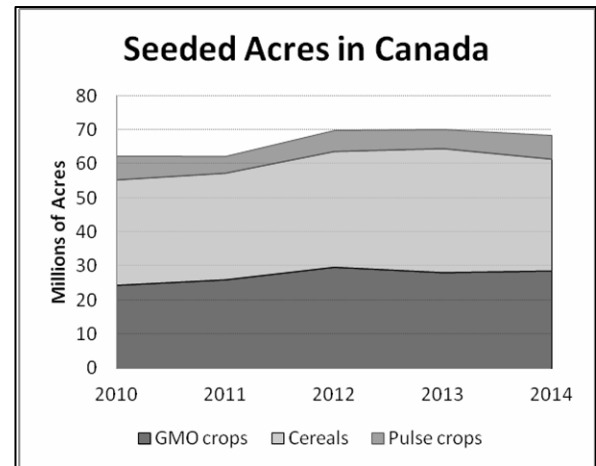


FIGURE 1: Source: Statistics Canada

While seed companies may seek a larger and more secure market for both seeds and chemicals, both farmers' incomes and Canada's pollinators are at risk from the expanded use of neonicotinoids – a plausible outcome of Bill C-18 if it is allowed to become law.

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(Note: Bill C-18 passed Second Reading in the House of Commons on June 17. It will go to Committee some time after Parliament resumes sitting on September 15. For more about Bill C-18 and other seed-related information, please visit <http://www.nfu.ca/issues/save-our-seed>)

Partners in Wheat Biotechnology?

On June 5, 2014, 16 organizations from the USA, Canada and Australia released a statement promoting synchronized commercialization of biotech wheat in all three countries. The Canadian groups that signed it are the Canadian National Millers Association, Cereals Canada, Grain Farmers of Ontario, Grain Growers of Canada, and the Western Canadian Wheat Growers Association. Their statement (see <https://tinyurl.com/ows6oyn>) calls for continued public and private investment in "innovation", streamlined approval processes, acceptance of low level presence (LLP) of unapproved GMOs in imports and exports, "co-existence" via acceptance of some level of contamination, and no new regulatory measures regarding the food safety of genetically engineered wheat, while promoting the use of biotechnology in wheat to feed the world. Except for the Millers, the groups that signed the statement are also members of *Partners in Innovation*, the lobby group set up to promote Bill C-18's unpopular changes to Canada's Plant Breeders Rights Act. For more information, see the NFU's report, "What is behind the *Partners in Innovation* PR campaign?" at <https://tinyurl.com/qcr5ely>

In 2009 a similar call for coordinated introduction of GMO wheat in these three countries was issued. In response the NFU, along with 232 other organizations from a total of 26 countries, signed the following statement: "In light of our existing experience with genetic engineering, and recognizing the global consumer rejection of genetically engineered wheat, we restate our definitive opposition to GE wheat and our commitment to stopping the commercialization of GE traits in our wheat crops." The level of international alarm, along with Japan and South Korea's quick suspension of US wheat imports, that followed the discovery of unapproved GE wheat growing in an Oregon farmer's field in May, 2013 suggests that worldwide opinion is still strongly opposed to GE wheat.