

Submission by Harlequin Enterprises (Australia) Pty Ltd

Productivity Commission – Inquiry into Australia’s Intellectual Property Arrangements

Harlequin Enterprises (Australia) Pty Limited welcomes the opportunity to make a submission to the Productivity Commission Issues Paper on Australia’s Intellectual Property Arrangements. In particular we wish to address the question on page 21 of the Issues paper pertaining to parallel importation:
Do existing restrictions on parallel imports still fulfil their intended goals in the digital era?

Summary

The Parallel Import Restrictions (PIRs) remain a pragmatic intervention to address copyright and closed markets in the UK and US publishing industry and buffer its effects in the Australian market. The PIRs ensure that:

1. Positive externalities from local production are maintained, including investment in local authors, local production capacity and employment, and spillover into economic activity across the wider sector;
2. The threat of ‘dumping’ large numbers of US and UK editions into the Australian market is effectively mitigated. Although publishing market conditions have changed over the life of the regulation, the underlying market power imbalance between Australia and territories such as the US and UK remains such that if the PIRs are removed, the threat of dumping would be significant;
3. Local authors with international publication deals are protected from their titles in different editions potentially being remaindered in Australia thus causing confusion to the reader and a reduced royalty payment to the author;
4. Territories for e-books are clearly delineated to ensure the threat of piracy is reduced.



Company Overview

Harlequin Enterprises (Australia) Pty Ltd was established in Australia in 1974 and is a division of HarperCollins *Publishers*, a subsidiary of News Corp. Harlequin has dedicated teams covering publishing, editorial, sales, marketing, finance, operations, production, IT and customer service as well as external sales, editorial and merchandising functions.

Harlequin primarily publishes commercial fiction and non-fiction, including the Mills & Boon imprint. Harlequin Australia published 53 books by Australian authors in print in the last fiscal year (FY15) and 95 digital first (e-books) by Australian authors. Our Mills & Boon titles have been designed and printed in Australia for over twenty years. The total publishing program is 800–900 titles per year from an author base that includes over 75 Australian authors. Harlequin is in the top 10 fiction publishers in Australia, and enjoys a 60% share of one of our key categories, romance.

1. Protecting a positive externality, where local industry has a significant cultural impact

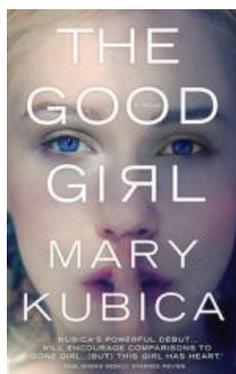
International titles tailored to the Australian market

Harlequin Australia does not just import and sell international titles. We invest considerable resources to ensure that content packaging is tailored to the Australian consumer: every title from our UK and US offices are repackaged and rebranded with a new cover to suit the Australian consumer. This is a full-time role for two cover designers.

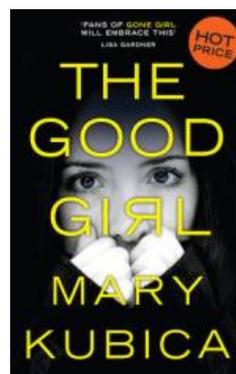
The publishing program is simultaneous with the overseas publication date, and the authors enjoy revealing the different covers on social media, and appreciate the need to differentiate their book for the local reader.

Harlequin also works with Australian retailers in a marketing and publishing context to ensure tailored content and packaging provide a great value proposition to the Australian consumer. A change to the territorial rules would result in a dramatic reduction in the value-add resourcing invested in localising the product. Furthermore, Harlequin would run the risk of dumped remainder stock diluting the market. The eroded economics would necessitate a reduced product offering to Australian retailers and would severely diminish the value-add proposition of our content to the Australian consumer.

Table 1.0 demonstrates the customised publishing approach Harlequin takes to a book – in this case *The Good Girl* by American author Mary Kubica, which was designed and printed in Australia:



US Paperback
US \$14.36



Australian Paperback
Australian \$14.99
Designed and printed in Australia

Table 1.0: Packaging tailored to the Australian market

Significant investment in Australian authors and an Australian publishing program

If the territorial copyright restrictions were lifted Harlequin would not be in a position to continue to invest in our Australian local publishing program to the same extent as we have in recent years.

With the removal of territorial copyright, Harlequin's revenue from the sale of international titles would reduce such that investment in discovering and launching Australian authors would be significantly stymied – resulting in a significant loss to Australian literature.

The loss of Australian-based publishing would also exert a far-reaching cultural impact. Australians love to read Australian stories – in particular 'rural romance', romantic stories with an Australian rural setting. This is a unique genre within the Australian market and Harlequin has invested considerable financial resources and capabilities to create and grow a stable of leading brand authors.

The proposed changes to PIRs will have a devastating effect on Australian authors, with their income reduced significantly. Fewer Australian authors will be published and a damaging downward cycle of reduced investment to nurture and grow new Australian authors will commence. In the last five years, over 500,000 Australian rural romance readers have been enriched by uniquely Australian stories: an outcome which will be at severe risk if the proposed changes to the PIRs are accepted.

In addition, Harlequin was the first Australian publisher to launch a digital-only imprint called Escape Publishing. This ebook channel has allowed Harlequin to publish over 100 new Australian authors titles in ebook, backed with strong sales and marketing support. The creativity and profitability of our Australian print publishing program has allowed for this investment to occur.

The detrimental flow-on effect through other sectors of the industry and strategic partners will be significant. Currently almost 100% of Harlequin's books are printed in Australia by McPhersons Printing Group (Victoria) and PMP Print (trading as Griffin Press, South Australia). These locally printed books are distributed nationally by Network Services (a division of Bauer Media), Harper Entertainment Distribution Services, and into New Zealand and Asia-Pacific. A decline in print volumes is certain to have a severe adverse impact on the printing industry, transportation and supply logistics companies, with significant job losses expected nationally.

Harlequin is a lead sponsor of the Romance Writers of Australia Association and the Australian Romance Readers Association. These organisations promote excellence in romantic fiction for both Australian and international authors. Investment in these and other important cultural organisations will be hindered in the future without continuing support for the PIRs.

2. Perceived monopoly pricing and distribution is a fallacy

Globalised book retail economy

Over the last five years, the consumer retail landscape for book purchasing has changed dramatically. Ebooks now represent over 20% of all book consumption worldwide and consumers now have access to global pricing information. Online retailers of print books based both offshore and onshore, together with the growth of ebooks, have provided a significant competitive threat to Australian book retailers. Publishers have responded with recommended retail price (RRP) reductions and retailers have responded with consumer price discounting. This indicates that Australian consumers are willing to buy locally at the current selling prices in a retail environment that supports a plethora of print and digital, online, onshore and offshore offerings.

Harlequin's pricing, sales and distribution ensures that Australian consumers have timely access to titles at an internationally competitive price

Since 2009, Harlequin has reduced the RRP of its trade paperback format from \$32.99 to \$29.99, \$27.99 or \$24.99, and reduced the RRP of young adult titles from \$19.99 to \$16.99. Potential price disparity is dispelled when we accurately compare the different formats available in different markets and factor in the exchange rate, freight and GST costs.

Harlequin has responded to the 'Speed to Market' agreement and streamlined processes to ensure that we publish all major international authors simultaneously with the US and UK.

Transition from print book to ebook has delivered a significant increase in competition – in particular in fiction and romance categories

Harlequin has market leadership in the romance category, which has seen a faster and a more significant transition to ebooks than other genres. In 2013, over 22% of Harlequin's adult fiction sales were from e-tailers, that is, sales of ebooks. The different economics of the ebook publishing model have resulted in lower selling prices to the Australian consumer – prices that are also internationally competitive. Therefore, the abolition of territorial copyright is unnecessary when the ebook has delivered higher diversity of titles available to the Australian consumer, and now acts as natural competitive force in the Australian book retail landscape.

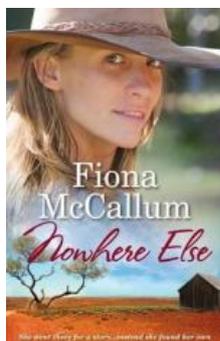
3. Imbalance of global economic market powers necessitates intervention

Protection is required in the Australian market, due to unequal global market power. There are two aspects to this argument:

Firstly, failures in overseas markets will manifest in the Australian market becoming a dumping ground for cheap remainder stock. It is an economic injustice that an overstocked title or failed book from an overseas market can be imported into the Australian market. The resulting impact will be to undermine the economics of a healthy and successful local publishing industry.

Secondly, Harlequin's appetite for investing in new Australian talent would be severely dampened. Today, a bestselling Australian title has a chance of successfully having its rights sold in the US or UK. If PIRs were removed, there is the possibility that overseas editions of these titles would be re-imported into the Australian market. Harlequin has had leading Australian authors with titles published in the UK and US in the last year. If sales of the Australian edition decreased due to consumers buying re-imported stock from the UK or US, the incentive to grow the Australian author locally dissolves completely. This would be an injustice to the Australian publisher that discovered and launched the careers of these authors. In the longer term, the investment cycle in growing Australian authors will reduce dramatically and at a significant cultural cost to Australia and Australian readers.

An example is *Nowhere Else* by Australian author Fiona McCallum. This was a bestseller in Australia in 2011 and led to Harlequin UK publishing the title as *Australian Secrets*. Online retailers have been shipping *Australian Secrets* to Australia and the author has received queries and criticism from readers via email and social media asking if they are the same book. Table 2.0 shows the different cover and title approach for the same book:



Australian edition



UK edition

Table 2.0: Australian versus UK edition of “Nowhere Else” by Fiona McCallum

Conclusion: Key reasons why territorial copyright should not be lifted

The current restrictions on parallel imports definitely fulfil their intended goals in the digital era. There are many reasons why the abandonment of territorial copyright would be detrimental to Australian publishing and related industries.

We highlight the following key areas:

- It would seriously and negatively impact the amount of Australian content Harlequin and other publishers commission and publish. In recent years, Harlequin has quadrupled the size of its Australian publishing program, requiring a financial investment in Australian editorial, publishing and design capabilities. We have increased the head count in the publishing department from four to eight people in the last two years. The publishing program and resources invested would be substantially impacted should the restrictions on copyright law be lifted;
- There would be a significant effect on related industries, particularly printing, distribution, design and independent booksellers – in particular we would expect it to lead directly to significant job losses in these industries;
- There is no proven or provable positive impact on the pricing of our books in Australia;
- The dumping of international titles would increase significantly, which would in turn decrease our local print runs and reduce our local marketing and promotional efforts; and
- Our international colleagues and competitors in the UK, US and Canada all operate in a closed market environment and Australian publishing would be compromised if it did not operate in the same situation.

Traditionally, Australians have enjoyed a vibrant and flourishing publishing industry, which has built many Harlequin authors into household brands. Significant investment has been made to grow commercial fiction and non-fiction categories by home grown authors and to suit an ever changing market dynamic.

In this environment, removing PIRs would risk destroying an industry that is a pillar to investing and growing Australian culture and creating employment for Australians.