



Australian Government
Productivity Commission

Restrictions on the Parallel Importation of Books

Productivity Commission
Research Report

June 2009

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ISBN 978-1-74037-281-7

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An appropriate citation for this paper is:

Productivity Commission 2009, *Restrictions on the Parallel Importation of Books*, Research Report, Canberra.

The Productivity Commission

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

Further information on the Productivity Commission can be obtained from the Commission's website (www.pc.gov.au) or by contacting Media and Publications on (03) 9653 2244 or email: maps@pc.gov.au.

Foreword

Books play an important role in Australian society, informing and entertaining readers, recording historical events and helping to shape our culture.

The ‘parallel importation’ of books that have been published in Australia is subject to legislative restrictions. The Commission was asked to assess the effects of these restrictions on the community and to determine whether they should be retained, modified or repealed.

In preparing its report, the Commission has drawn on a range of evidence, including material put forward in a large number of submissions and during consultations with participants from both industry and government. Reflecting extensive feedback on the discussion draft, together with further research and deliberation by the Commission, the central recommendation in this final report has been changed significantly from that in the discussion draft.

The study was overseen by Deputy Chairman Mike Woods and Commissioner Louise Sylvan. It was undertaken by a staff research team, led by Tom Nankivell, located in the Commission’s Canberra office.

Gary Banks AO

Chairman

June 2009

Terms of reference

Copyright Restrictions on the Parallel Importation of Books into Australia

The Productivity Commission is requested to undertake a study on the current provisions of the *Copyright Act 1968* (the ‘Copyright Act’) that restrict the parallel importation of books and report within 6 months of receiving this request.

Context

The Council of Australian Governments (COAG) has endorsed a new competition reform agenda designed to enhance Australia’s longer term growth prospects. To advance this work, a number of priority areas have been identified for review. The Productivity Commission is requested to provide advice on the potential for reform with respect to the parallel importation of books.

Background

The Copyright Act gives authors (which includes creators of literary and artistic works) a number of exclusive rights over their original works which provide an economic incentive to promote the creation and distribution of new works for the benefit of the community.

Within these rights, copyright owners through their licensing arrangements, are able to prevent the importation into Australia of books that have been lawfully published in another country (ie ‘parallel imports’). The operation of these provisions potentially results in higher prices and less availability of books to the disadvantage of Australian consumers.

In 1991 amendments were made to the Copyright Act restricting the use of the rights with respect to imported books. Essentially, the amendments permit the parallel importation of lawfully published books where there has been a failure to supply the Australian market once the book has been published in another country. These changes were intended to address concerns about delays in obtaining copies of overseas books.

However, there are a range of views about whether the provisions result in significantly higher prices for Australian consumers compared to other markets.

Scope of Study

In undertaking this study, the Commission is to examine the present provisions with respect to the parallel importation of books – which include exceptions to copyright – having regard to, and where possible quantifying:

- the extent to which the provisions promote and achieve the objectives of the Copyright Act;
- whether the provisions amount to a restriction on competition;
- if so, the costs, benefits and effects of the restriction;
- whether the benefits to the community from the present provisions outweigh any costs from restricting competition; and
- any identified options for reform, including non-legislative approaches, and any transitional arrangements.

Key Considerations

In conducting the study the Commission shall have regard to:

- the impacts on all relevant industry groups including authors, publishers, printers, distributors, retailers, consumers, libraries and educational institutions (including small and medium business);
- the intended objectives of the parallel importation provisions within the overall policy framework of the Government including competition, intellectual property, trade and industry policies;
- approaches adopted in comparable other countries;
- relevant rights and obligations under international treaties to which Australia is a party; and
- the conclusions and recommendations made in other relevant reviews and the views of relevant stakeholders.

The Commission is to undertake an appropriate public consultation process including the invitation of public submissions.

CHRIS BOWEN
Assistant Treasurer
[Received 13 November 2008]

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Abbreviations

ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ADA	Australian Digital Alliance
ALAA	Australian Literary Agents' Association
ALCC	Australian Libraries Copyright Committee
ANZ	Australia and New Zealand
ARIA	Australia Recording Industry Association
ASP	Average Selling Price
BIAP	Book Industry Assistance Plan
CAL	Copyright Agency Limited
CD	Compact Disc
COAG	Council of Australian Governments
CPA	Competition Principles Agreement
DDS	Discount Department Store
ELR	Educational Lending Right
GBP	United Kingdom Pound
GST	Goods and Services Tax
IPA	International Publishers Association
ISBN	International Standard Book Number
MPG	McPherson's Printing Group
NCP	National Competition Policy
NECG	Network Economics Consulting Group
NRA	National Reform Agenda
PC	Productivity Commission
PIAA	Printing Industries Association of Australia

PIR	Parallel Import Restriction
PLR	Public Lending Right
PSA	Prices Surveillance Authority
RRP	Recommended Retail Price
TPA	Trade Practices Act
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UK	United Kingdom
US	United States
USD	United States Dollar
VAT	Value Added Tax

Glossary

Australian edition	A version of a book produced under licence by an Australian publisher.
Back list	Editions of titles in print that have been on the market for 12 months or more.
Current list	Front and back list titles currently in print; not remainders or out-of-print titles.
Educational book	A book written, published and prescribed or recommended for a primary, secondary or tertiary education course; or a professional or reference text.
Foreign edition	A version of a book produced under licence by an overseas publisher.
Format	Relates to the size, cover and binding of a book, such as A format (small) paperbacks, B format (regular) paperbacks and C format (large or ‘trade’) paperbacks or hardbacks.
Front list	Editions of titles that have been on the market for less than 12 months.
Literary work	An author’s written material within a book that is protected by copyright.
Parallel importation	Importation of a book legitimately supplied overseas, for which there is an authorised locally published version.
Recommended retail price	The price for which a publisher recommends that a book be sold, which is sometimes printed on the cover.
Remainders	Books that are dramatically reduced in price by publishers to liquidate stock.
Royalty	Payment by a publisher to an author for the use of his or her literary work.

Sale or return

When stock that is supplied by a publisher to a bookseller may be returned to the publisher if unsold after a period.

Trade book

A book written for general reading purposes.