

To the Productivity Commission

RE: Submission in response to the Commission's Draft Report into Intellectual Property Arrangements – April 2016

Background

I have been a member of the publishing industry for over 20 years and during that time have seen the issue of territorial copyright (i.e. parallel importation restrictions) debated and reconsidered by the prevailing government, on a number of occasions. Most recently, in 2009, the debate was resolved by an independent industry agreement which saw publishers adhering to a code of conduct that ultimately aimed to improve availability to Australian readers and booksellers.

This voluntary initiative to publish books in Australia within 14 days of their first international English language release, resulted in publishers changing their supply methods and ultimately delivering even more benefits to the Australian economy. This is because an enormous number of the books distributed throughout Australia (by both Australian and international authors) are now printed in Australia – by our own printers, and shipped using local distribution companies to our local warehouses. Why? Because the only way to publish books within this sort of timeframe is to print them locally. It is very important to note this, because it is factually the opposite to what the Commission suggests its Fact Sheet 1:

“Parallel imports” are goods protected by intellectual property rights, produced overseas with the permission of a rights holder, and subsequently imported into Australia.

Clearly, this is not the only reality in our industry, and the more prevalent supply method (of printing locally) has of course had a real and significant impact on the commercial viability of Australian printers and distribution companies. Plus, it has also generated greater sales for bricks-and-mortar book retailers, given the immediacy of availability.

The industry understood the importance of delivering this to consumers. It listened and responded. And since 2009, the book industry has faced much change, but has continued to listen, respond and adapt, without the need for legislative change. Some of the most significant forces affecting the industry have included:

- the closure of the country’s largest book chain store (The Red Group, comprising Angus & Robertson and Borders)
- the launch of e-books
- the effects of a volatile Australian dollar
- the explosion in online shopping

Within this challenging economic landscape, publishers retained their steadfast focus on providing Australian readers with the best of the world’s publishing, when they wanted to read them, and with a keen eye on international pricing. Why? Because we recognise the need to be truly market competitive – not just within Australia, but on an international level.

And we have clearly done a good job of responding and delivering what Australian readers want.

Parallel Importation Restrictions (PIRs)

The Commission's report (and Fact Sheet 2) provides that:

'Parallel import restrictions enable rights holders to charge Australian bookstores, and by extension Australian consumers, higher prices for books.'

In an industry as competitive as ours, market forces act to make this impossible. The explosion of online shopping has provided consumers with a far-reaching ability to compare and take advantage of the best prices – for all products, including books. Every organisation (regardless of industry) must be prepared to compete on price – not just locally but on a global level. If we do not, we will lose consumers, because they already have access to books from anywhere in the world. So in essence, the removal of PIRs would not have the effect the Commission is suggesting – because the market already takes care of this, naturally and organically.

Our industry is completely united on this issue:

- The Australian Publishers Association
- The Australian Bookseller's Association
- The Australian Literary Agents' Association
- The Australian Society of Authors
- The Children's Book Council of Australia
- The Printing Industries Association of Australia

All these stakeholders believe the removal of parallel importation restrictions will have a detrimental effect on our economy and culture.

I urge the Commissions to seriously consider this, along with the real-world examples of the New Zealand and Asian markets. These 'free markets' have not delivered benefits to either their consumers or their economies. Why would the results in our economy be any different to these?

Fair Use

The 'fair use' proposal of the Commission's report is likely to have a similar disastrous effect on our Australian educational publishing. Our existing 'fair dealings' exceptions have returned fair recompense to both the authors and the publishers who have invested in this important part of the market.

This segment has also been responsible for some of the best innovations in the industry, such as the creation of Mathletics – an international success story of our local educational publishing industry. At a time when we are trying to deliver a smart economy, why would we seek to cut this sort of innovation off at the knees?

Changes to Copyright Term

The Commission suggests that '*a copyright protection term of 15 to 25 years would provide almost the same level of financial incentive to creators as current arrangements, while minimising wider costs on the community.*' As the home to works by some of this country's literary legends (May Gibbs, Norman Lindsay, Ruth Park, Jackie French and more ...) I can confirm this is misguided. Having said that, I also understand that a change to this term would not be possible as it is contravened by our party to various trade agreements, so I will waste no more time on this now.

In conclusion

Echoing the thoughts of many with experience in the industry, I would like to conclude by reinforcing that the implementation of the Commission's recommendations would lead to:

- less income for creators
- less investment in Australian-specific content
- greater legal risks to users of copyright material
- more litigation around copyright (and consequently less focus on the 'real work' of a publisher)
- a loss of jobs and skills across the industry

We have built a successful, world-competitive industry without government subsidies, so I find it hard to understand why we would risk putting Australian authors and publishers at a disadvantage in relation to their international counterparts.

Ours is an industry which reflects the values of our culture and our society. We have proven our value with our authors (such as Richard Flanagan and Thomas Keneally) winning some of the biggest international literary prizes.

Why would we risk extinguishing our unique Australian voice for the sake of an economic ideology which is unsupported by evidence and won't achieve the Commission's intended outcomes? The evidence from other markets is clear – let's not make the same mistakes.

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