

2 June 2016

Intellectual Property Arrangements
Productivity Commission
GPO Box 1428
Canberra City ACT 2601
Intellectual.property@pc.gov.au

Dear Commissioners,

RMIT University welcomes the opportunity to comment on the Productivity Commission's draft report on the inquiry into Australia's Intellectual Property (IP) Arrangements. The draft and its recommendations are a laudable and comprehensive attempt to balance the interests of rights holders and users of IP within the constraints imposed by current trade agreements. The Commission is to be commended for its efforts.

Copyright

RMIT supports the Commission's copyright framework and the majority of the findings and recommendations presented in draft Chapters 4 and 5. The largely ad hoc expansion of Australia's copyright system over the past century, rapid developments in technological innovations, and the stringent copyright terms imposed by current trade agreements, most notably those entered into with the United States, have resulted in an excessively protectionist system. Amending the *Copyright Act 1968* (Cth) to expand flexible exceptions, perhaps through fair use as described in recommendation 5.3, is required if Australia is to ensure an effective, efficient, adaptable and accountable copyright system.

Parallel Import Restrictions

While RMIT neither supports nor opposes the recommendation to repeal parallel import restrictions (PIR) for books, we do ask that the Productivity Commission take into consideration recent funding cuts to the budget of the Australia Council, which have resulted in a dramatic decrease in grants to individual creators.¹ Before proceeding to repeal PIR we suggest that the report's assertion that authors' concerns "would be addressed by ensuring that direct subsidies aimed at encouraging Australian writing—literary prizes, support from the Australia Council, and funding from the Education and Public Lending Rights schemes—continue to target the cultural value of Australian books" requires some verification. Clarification of how such support will be ensured would be beneficial if the continuation of direct subsidies is viewed as necessary to the repeal of PIR.

Open Access

With the Australian Technology Network of Universities (ATN), RMIT supports draft recommendation 15.1 in principle, believing that a single open access policy for publically funded research across all Australian, State and Territory jurisdictions is desirable.

RMIT notes, however, that pending changes to Commonwealth Research Block Grants to universities could result in a determination that all university research outputs not covered by

¹ "Election FactCheck: did the Coalition cut \$105 million from Australia Council funding?" *The Conversation* (May 19, 2016) <https://theconversation.com/election-factcheck-did-the-coalition-cut-105-million-from-australia-council-funding-59531>.

specific contractual obligations limiting publication must be publically accessible. In theory this is not a negative outcome, but an Australia-wide Open Access policy would need to take account of these changes. Should a universal Australian Open Access publishing policy for publically funded research eventuate, therefore, it will be necessary to minimise unintended consequences such as researchers refraining from publishing their findings or seeking to evade Open Access requirements. It will also be important that the new policy not impose undue administrative, compliance and unsupported data storage burdens on institutions.

Once again, RMIT thanks the Productivity Commission for the opportunity to comment on the draft report on the inquiry into Australia's Intellectual Property Arrangements. Please do not hesitate to contact us should you have any questions about our submission.

Kind regards,

Professor Calum Drummond
DSc PhD FTSE FAICD FRACI FRSC CChem
Deputy Vice-Chancellor Research and Innovation and Vice President