

Intellectual Property Arrangements  
Productivity Commission Draft Report  
April 2016

June 2016

Thank you for the opportunity to make a submission to the Productivity Commission's Inquiry in response to the release of their draft report into Australia's Intellectual Property Arrangements.

I have worked in the Australian publishing industry for nearly twenty years, as a bookseller, editor, literary agent, author, and now a publisher at Hachette Australia. I also have a Bachelor of Laws, for which I electively studied intellectual property law. So my response to the recommendation that Australian territorial copyright be removed comes from both contexts.

In short, the notion of Australia no longer being a territory for the purposes of copyright seems akin to saying that it should no longer be a territory for the purposes of having a passport. The territory of the mind isn't visible the way a border – or an island girt by sea – is but it is no less important a territory. Territorial copyright establishes that certain borders can't be crossed without the correct credentials – namely, that rights to that territory need to be sold otherwise a territory is being entered illegally, just as we are unable to cross borders without a passport.

Doing away with territorial copyright for Australia essentially says that we do not exist as a country in any manner other than the physical. There will be no body of intellectual work that can be identified as 'Australian' because that territory will not exist. And if Australia doesn't exist in the mind – if we cannot say that this or that work is 'Australian' – there will be consequences for our national culture, and our national cultural exports. What will be the value of Australian culture if it's merely 'culture'? Why would anyone seek to destroy Australian cultural identity? That is certainly a likelihood if the very notion of an Australian copyright territory ceases to exist.

Purely on a level of comparison, this removal of territorial copyright is not something that the United States or the United Kingdom would ever countenance, and the effect in Australia will be to give domain to those copyright territories who are able to outmuscle us by dint of pure size and the effect of economies of scale.

Others will have submitted on the economic effect of changes to copyright law in Australia, and I could write to say that I am worried that I will lose my job. More than that, however, I am worried that I will lose my culture, and that the adjective 'Australian' will come to mean nothing when it is applied to anything produced by an Australian mind.

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