

My submission concerns the issue of the Parallel Importation Restrictions (PIRs) in Australia's copyright act that regulate the importation of books into Australia.

In my view it is clearly in the interests of Australian book buyers that the PIRs be abolished to enable our booksellers to import product from legitimate overseas sources in circumstances where the local rights holder was over-pricing and/or under-servicing. Australian consumers and readers would always be advantaged under that scenario, if only by the competitive pressure placed on the local rights holders to lift their game.

Australian publishers, authors and other book trade bodies have long been resistant to this reform as the Productivity Commission well knows. They cite the importance of *territorial copyright* to the vitality of the industry, and to Australian culture in general. They are mistaken in their belief, however, that the PIRs construct Australia as a rights territory.

Australia is a territory naturally, through its distance, population size, high literacy levels and mature book trade infrastructure.

The PIR's are just classic trade protectionist measures, long discredited in other commercial realms (music and software, for example), that have absolutely nothing to do with territorial copyright which is granted by exclusive contracts over titles and lists. As they have operated for decades now, the PIR's simply give protection to under performing publishers, rights holders and importers by removing competitive pressure.

The book trade around the world has always been territorially focussed. Rights trading remains a central and critically important feature, for the simple reason that local operators in each territory are better able to exploit the various market opportunities for any given title due to their familiarity with the marketing, publicity, sales and distribution realities - in other words, feet on the ground.

There has never been any business logic for Australian booksellers to buy around local rights holders if those rights holders were competitive and professional, and treated their customers with respect. Operational excellence, including pricing policies that were responsive to the level of the Australian dollar against the US dollar and the Pound, has always been the best and only protection that was needed.

But as the Commission's own survey of book prices in Australia in 2009 showed, significant and unjustified markups at that time, when the Australian dollar was strengthening, were the norm.

While some heat has gone out of this issue over the last few years because of the eventual lowering of prices by publishers due principally to competition from Amazon (see my article on this issue [here](#)) and the falling dollar, I am concerned that these circumstances are transitory and the old uncompetitive patterns could

quickly reemerge if the dollar once again strengthens. The Australian book trade and readers in general would be far better served if the PIRs were abolished.

In conclusion I would like to make a comment about any transitional arrangements that the Commission may propose if indeed it recommended the PIR's be removed.

With the dollar now much weaker than in the period 2009-2014 the significance of the PIRs in the normal operations of importing in the industry has greatly dwindled. The opportunity for booksellers to profit from 'buying around' have declined dramatically, and hence their indulgence in it is quite sporadic.

In other words the low dollar is acting as a transition process in itself. Publishers are not looking to the PIRs for business support. This therefore is the ideal time for a swift and painless execution.

The Commission must remember that the concept and reality of territorial copyright will not be affected one iota by such a move, despite what local rights holders and authors will be loudly proclaiming.

Peter Donoghue
November 25, 2015.

(Peter retired from the publishing industry in March 2009, after a 35 year career in the Australian book trade. His last position was Managing Director of John Wiley and Sons Australia Ltd, a role he held for 16 years.

He held numerous industry positions during his career, including President of the Australian Publishers Association (1996/1997) and a Director of CAL (1993-2003).

In recent years Peter has made a particular study of digital publishing, including ebooks, and has written extensively on these and related issues.)