

U N S W P R E S S L T D .

NEWSOUTH
PUBLISHING

NEWSOUTH
BOOKS



UNSW
AUSTRALIA

Bookshop

SUBMISSION IN RESPONSE TO PRODUCTIVITY COMMISSION ISSUES PAPER ON AUSTRALIA'S INTELLECTUAL PROPERTY ARRANGEMENTS

RELEASED OCTOBER 2015

UNSW PRESS welcomes the opportunity to respond to some of the questions raised by the Issues Paper.

BACKGROUND

UNSW Press Ltd, operating since 1962, is a not-for-profit company whose board of directors is appointed by the Council of the University of New South Wales. Its mission is to contribute to the intellectual and cultural development of Australia by publishing in a sustainable environment works that will promote debate, the advancement and dissemination of knowledge, scholarship and the global reputation of UNSW.

The main activities of the company are book publishing; sales, marketing and distribution services; and management of the UNSW campus bookstore in Kensington, which sells textbooks, course materials and general fiction and non-fiction books.

<http://www.unswpress.com/>
<http://www.newsouthpublishing.com/>
<https://www.newsouthbooks.com.au/>
<https://www.bookshop.unsw.edu.au/>

Independent Publishing

One of Australia's oldest independent publishers, our organisation produces a range of general, literary and illustrated non-fiction and scholarly titles across two imprints: NewSouth and UNSW Press.

The quality and reputation of these lists is acknowledged in Australia and globally – many of its books have won major awards and prizes.

To cite just one example, Alan Atkinson's third volume of *The History of the Europeans in Australia: Nation*, won the 2015 Victorian Prize for Literature, the Victorian Premier's Literary Award for Non-fiction, the 2015 NSW Premier's History Award and the 2015

Council of Humanities and Social Sciences Australia Prize for a Book and it continues to be shortlisted for upcoming awards.

Since 2010 most titles have been published simultaneously in print and a full range of digital formats.

The team at UNSW Press values its relationships with authors and works closely with its writers – most of whom are based in Australia – to ensure that their books are as good as they can be and can find as large a readership as possible. About 45 new titles are published each year.

Sales & Representation

The NewSouth Books division represents the lists of more than 100 highly regarded publishers from the USA, the UK and Canada in the Australian and New Zealand markets. In this part of the business, a commission is earned on book sales; revenue has more than doubled in five years. Resources are channelled into the sales and marketing of trade non-fiction and scholarly books published by the organisation.

Led by Nella Soeterboek, NewSouth Books is well regarded nationally and internationally. In 2015 its National Sales Manager, Jane Kembrey, won NSW Sales Representative of the Year, which is voted by Australian booksellers.

University-based Retail Channel

UNSW Bookshop stocks the books the company publishes, as well as those books NewSouth distributes on behalf of Australian and overseas publishers. It also orders books from a range of educational and other publishers and from other Australian-based distributors that have the rights to sell books in this territory. Managed by Mark Halliday, this store has won many awards, including Campus Bookseller of the Year.

Licensing & Export

This year the company was accepted as an international member of the Association of American University Presses and members of our staff attend its annual conference, as well as book fairs in Frankfurt, London and the USA. At these fairs, rights to books we originate are licensed in markets that have their own territorial copyright.

It has been satisfying to see *Extreme Cosmos*, the work of scientist Professor Bryan Gaensler (former Young Australian of the Year) released in various languages and editions, all of which acknowledge the NewSouth imprint and UNSW Australia. Many other examples of this global impact in markets with territorial restrictions could be provided.

Copyright fundamental to viability of company

Working across its publishing, marketing and retail divisions, the company has 36 permanent staff and employs hundreds of people on a casual, freelance or contract basis. Given this structure and output, copyright is fundamental to the viability of the company. It is at the core of day-to-day activities at this university press.

Indeed, our team was so passionate about informing debate about copyright in the digital age, that this year we published a collection of essays, *Copyright*, edited by Phillipa McGuinness, with contributions from academics, musicians, film-makers, authors and artists. It has been very well received and widely reviewed and has prompted numerous community events and public discussions. This book was launched by Kim Williams AM,

Chair of the Copyright Agency and former chief executive of News Corp Australia.

UNSW Press has grown its market share in a period of significant change in the book industry and in media consumption. It has achieved this through open, vigorous and competitive negotiations with major publishers and – unlike most other university presses – without direct operational subsidies from its parent institution.

The remaining part of this submission addresses the following questions in relation to book publishing and bookselling:

- Do existing restriction on parallel imports still fulfil their intended goals in the digital era?
- How should the balance be struck between creators and consumers in the digital era? What role can fair dealing and/or fair use provisions play in striking a better balance?

PARALLEL IMPORTATION

..... *Do existing restriction on parallel imports still fulfil their intended goals in the digital era?*

Parallel importation restrictions remain relevant in the digital economy.

Book buyers in Australia have access to a wider range of books at affordable prices than at any previous period in the country’s history. Individuals can purchase books from Australian, British and American online retailers at competitive prices. There is no problem in networked 21st century Australia with the availability of book titles.

Because of this easy access to information about books and new delivery systems, we ensure that our company responds to its customers’ needs and operates as efficiently as possible in the Australian market.

In the publishing division, our publishers originate most titles in Australia and select books are licensed from publishers based elsewhere and released in our own imprints. Most of the titles NewSouth Books handles are distributed on behalf of other publishers because there is an agreement to manage their lists in the Australian territory. If these books are not available to Australian consumers at the same time as they are released in other territories and at a competitive price, the sale is lost. There is a strong incentive to release books simultaneously around the world at a reasonable price.

Internal data on the books that our company publishes and distributes shows that the average price at which we sell books to retailers has declined since 2011. This reduction has largely been passed on to consumers by Australian booksellers who already compete with overseas online retailers.

Territorial copyright ensures that NewSouth Books invests in the marketing of a book. This includes supporting author tours and events and providing accurate information to retailers, educational suppliers, libraries and media outlets. Some exclusivity – even for a limited time – is important as it gives the company the confidence to invest in the positioning of books and authors in Australia. An example is the work

NewSouth Books did to introduce the esteemed best-selling Scottish writer Alexander McCall Smith to the Australian market.

It makes no sense to change the limited restrictions on the parallel importation of books when other English language territories – the UK/Commonwealth and North America – maintain territorial copyright.

Dumping: There are also concerns that allowing the parallel importation of books without any restriction will encourage companies to dump remaindered stock in this market.

Piracy: It is essential that any new regulation or reform also consider the issue of piracy. As a publisher of general non-fiction and a small number of textbooks, which tend to be more affected by piracy than other categories of books, we are well placed to comment on this. Tracking pirated or counterfeit editions of books is already a burden for publishers who invest in original content and back talented authors, as well as for booksellers who purchase from the appropriate channels. There is no reason for a government to provide fertile ground for those who don't recognise copyright.

Authors' view: On November 28, in an open letter to the Prime Minister, Booker Prize-winning authors Peter Carey, Thomas Keneally and Richard Flanagan, wrote that the consequences of ending restrictions on parallel importation on books without due consideration will be “job losses, public revenue loss as profits are transferred overseas, and a brutal reduction in the range of Australian books publishers will be able to publish. Australia will become, as it was in the 1960s, a dumping ground for American and English books, and we will risk becoming — as we once were — a colony of the minds of others.” There are effective and profitable publishing, marketing and distribution networks operating in Australia that supply books at competitive prices. Any positive economic reform would ensure that these companies can continue to operate sustainably in Australia by publishing locally, exporting books globally and remaining a central part of the culture.

‘FAIR USE’ PROVISIONS

..... *How should the balance be struck between creators and consumers in the digital era? What role can fair dealing and/or fair use provisions play in striking a better balance?*

The Statutory Licence, as it currently stands, provides excellent value for use of quality Australian content by the education sector and broader community. It provides flexibility for the use of published content and fair remuneration in both print and digital formats. It helps to fund authors and publishers and encourages further investment in Australian books and related educational products.

Financial return: The return for copied content that UNSW Press receives for its books varies from year to year. While revenue received from the Copyright Agency cannot be accurately forecast, it remains significant for our company. Net receipts from the Copyright Agency for the past five years have averaged \$115k per annum. On average, some of our authors (that is, those whose books were copied) would have received a similar amount collectively from this source.

Given the time, high level of skills and investment involved in publishing original content, this income encourages further innovation in publishing. These supplementary funds are consistently invested back into the company to publish more high quality Australian content across various formats. While the main source of revenue is from book sales, donations (to the UNSW Press Literary Fund and UNSW Foundation), grants and payments from collecting societies contribute to the viability of each book contracted.

Efficient management: Permissions and payments are currently managed very efficiently through organisations such as the Copyright Agency. The systems that have been put in place in the past five years or so have lessened the administrative burden for teachers, schools, universities, authors and publishers. This should not be underestimated. In our case, any repeal of the statutory license would impact financially. Funds would have to be diverted away from the creation of new content and into the administration of a diverse and unpredictable range of licensing and permissions requests.

Disruption as a result of technological shifts is constant in the publishing and educational sectors. What is required at this stage is considered reforms that build organically on the existing well-managed, cost-effective statutory license system and encourage the sustainability of independent Australian book publishing into the future.

We are concerned about recommendations in the recent ALRC copyright and digital economy report to consider a US-style ‘fair-use’ provision. This is highly likely to threaten the equitable remuneration for authors, publishers and creators that is now managed by the Copyright Agency and other organisations.

Negative impact in Canada: We have observed what has happened to our publishing colleagues in Canada since 2012, when US-style ‘fair use’ guidelines were adopted. It has clearly had a negative impact on their businesses, including job losses and some company closures. The slump in Access Canada’s revenue – likely to be documented in more detail in other submissions – has had a detrimental impact on creativity and the intellectual culture of that country.

As a not-for-profit university-based company that continues to invest in well-edited, highly crafted, and efficiently marketed books, we value the revenue stream we get by operating in a territory where authors’ rights are acknowledged and license fees are received from organisations that copy those works in copyright.

Support innovation: Any changes to the Copyright Act must ensure Australia’s publishers, authors, creators and readers benefit. At present, there are a high number of companies like UNSW Press investing in innovative, original content in print and digital book formats, targeted primarily at Australian secondary and tertiary teachers and students, professionals, as well as many other interested readers. It would be sensible to build on this solid foundation, to provide incentives to those savvy Australian publishers who understand the local market and export and license content globally.

The introduction of a US-style fair-use provision would block investment, discourage experiment and innovation and add to the challenges of an industry already facing significant disruption and global political uncertainty.

CONCLUSION



We make books in Australia.



We employ people to write, commission, edit, design, market, distribute, sell and talk about books.



We don't care how books are read – on the beach, on a digital device, in a classroom, in the bath, standing on your head.



We guarantee there will be plenty of books to choose from in bookstores, online and in libraries.



When we do import books by authors from around the world (because we've bought the rights) we release them at the same time as the rest of the world at a competitive price.



When book publishers are creative and their businesses sustainable, they fund and support literacy programs and events in schools and community libraries. This ensures Australian children, especially disadvantaged children, can get their hands on a book.



UNSW Press, along with the rest of the book industry, has been through a period of unparalleled change. In response, we have transformed the way we operate and the way we publish and sell books. Consumers have benefited from this. A supportive regulatory framework is essential so we can continue doing – and improving – what we do, rather than see it undermined.



In the digital economy, there is a book publishing industry at the heart of any nation that brands itself:

- Innovative
- Creative
- Connected
- Educated
- Agile

Let's keep making books in Australia.

KATHY BAIL
Chief Executive Officer
UNSW PRESS LTD

