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Dear Commissioners,

Submission re: The Productivity Commission's Report on Australia's intellectual property arrangements

My name is Jo Jette. I am an Author just starting my professional creative writing career, and have recently self-published my first novel in print and digital format. My first novel took me over 6 years to complete, working on nights and weekends, and I completed it with every intention of making writing books my full-time career. It is not in any way “simply a hobby”, and I take my craft very seriously. I am also a journalist, designer, illustrator and digital creative with over 15 years' experience, and so these proposed changes will affect me personally on several fronts.

To begin with, in the Intellectual Property Arrangements draft report you propose changing the Copyright laws from the easily understandable and fair restraints we have in place today (where the Creative owns their work up until their death and then their heir retains the Copyright for a further set period) to a more complex and vague scenario in which you propose to drastically cut short the time period in which a Creative (being anyone working within a creative field be they an Author, Designer, Scientist, Engineer, Innovator, Software Developer, Physicist, Theorist or any other individual who takes a concept and makes it a reality) owns their work and is protected by Copyright Law. To clarify my response, as you have not yet set a firm time-period in that the report refers to a period of “15 – 25 years” as the proposed ownership period I will refer to the shortest time period, ie. 15 years, throughout my submission.

I am confounded by the idea that a piece of work that I, or any other Creative, could spend literally several years pouring their heart and soul into and sacrificing time with their friends and family in the ambitious journey to make their idea a reality, can then have that idea – their Intellectual Property – stripped from them after a mere 15 years. To suggest that the



Creator of a piece of work does not have the right to own that work, to benefit from that work up until their death and then for their nominated descendants to have control over their **legacy** (at least for a certain period of time) shows a lack of understanding of not only the Creative Industries but also the **value** of Intellectual Property to the Creator themselves. Anyone who has an understanding of the Creative industries knows that an idea is fluid, and changes over time, and that you need to own that concept from start to finish in order to benefit from it long term. That profit may not be realised immediately, however that still does not give the Australian Government the right to strip the Creative of the opportunity to benefit from, and **derive an income** from their idea.

What you are proposing is that from the moment a piece of work is published (assuming that by publish you logically mean in digital or print format as both are considered valid forms of publishing), the Creative can only profit from that work for a 15 year period and then it is essentially a 'free for all' on the idea. Take the following example. Before publishing my book this year I had been working on the concept for 10 years, initially **publishing** short stories about the characters online, beginning in January 2006. This means the concept was first published 10 years ago, and if your proposed changes to Copyright Law go ahead then theoretically I only have a further 5 years from which to benefit from the years of hard work I have put into developing my concept and my product. After this further 5 year period anyone can then take over my work and do whatever they want with it, and I will see no further benefit or receive any income from that work. Similarly take the *Game of Thrones* Author George R. R. Martin as a further example. He began work on the first book in the series 1991, and it was then published in 1996. HBO then picked up the book and began work on a TV series in 2011, however if this had happened in Australia after the proposed changes to Copyright law, because the 15 year period has just elapsed, HBO could have gone ahead with the series without having to pay Mr Martin for his work in creating the characters and story that the series is directly derived from. It is also abundantly clear that Mr Martin's work had a life span far exceeding 5 years.

This brings me to my next point. Suggesting that within "5 years" of being published a work essentially holds no further value is fantastical. Such arbitrary figures cannot be applied across the board to such a fluid concept as Intellectual Property simply because you wish to cover as



many industries as possible under the one umbrella. History also proves time and again that many, many works have a life-span that extends well beyond the physical life of the Creator, not a set arbitrary period. The Creator has every right to benefit from the fruits of their labor for their life-time and to leave their legacy in the hands of their choosing. **This legacy also has value**, as I am sure you anyone who intends to leave their children, friends or relatives some sort of inheritance understands.

In the Draft Report it is also suggested that changes to copyright law will benefit consumers and ordinary Australians but it is clear that this is not the underlying intention, especially when you consider that the very people you are threatening with changes to Copyright law are ordinary Australians. The changes are blatantly designed to benefit large companies and corporations with the ready money and means to exploit the blood, sweat and tears of the Inventor or Creator but without having the burden of having to actually pay the Creator for fairly for Intellectual Property that they themselves *clearly could not come to on their own*. If these proposed changes go ahead then these corporations need simply wait out the proposed 15-year time period before they can then pounce on the idea and exploit it, while cutting out the Creator completely. I am sure that no one reading this would work so hard for so many years for **free**, and so I am at a loss as to why you would expect the same from peers, colleagues and your fellow Australians.

I also do not see how introducing a greatly reduced period of IP ownership or Copyright will promote innovation and creativity within Australia. On the contrary, I see the opposite occurring as more Creatives take their ideas overseas where they can enjoy IP and Copyright laws and a Governing body that respects the value Intellectual Property. As this happens the amazing creative talent we have in this country will decline and diminish, and innovation will stagnate. I know that for myself, if these laws change, I will be looking into ways to take my creativity overseas, so that my valuable work will be covered by laws that actually understand the value of Intellectual Property. I am not alone in considering my options, and the overwhelming majority of Creatives I have spoken to in regards to these proposed changes are in agreement. If the changes come into effect they will be taking their Intellectual Property elsewhere. The brain drain will inevitably begin.



As it is today, it is already extremely difficult to prove cases of Copyright breach, with a 'cease and desist' order being the most that a Creative can hope for in regards to a resolution when their Intellectual Property is used without their permission. Only companies or individuals with the strong financial backing can hope to fight and perhaps even win a Copyright case if it goes to court. In light of this I do not understand how reducing the time that a Creative owns their work will actually provide a benefit to the Creative, or ordinary Australians. In fact I would argue that is it the exact opposite. If it is already this difficult to protect your Intellectual Property, and your proposed changes only look set to make it more so, then it stands to reason that these changes will act as a Creative *deterrent*. After all why work so hard for so long on something just to see it ripped from you with no compensation or benefit provided?

It is also a fallacy to argue that Australians do not have fair access to copyrighted material right now. The Commission is casting too wide a net in the hope of tarring every Creative and Creative Industry with the same brush, when this is one industry – especially and obviously – where you *cannot deny the individual*. This is the very basis and nature of Intellectual Property. It comes from the individual, or group of individuals, working to solve complex issues whether that is a story being told or a Universe being discovered.

Fair Use in relation to Intellectual Property and Copyright already exists today – as any brief online search will tell you. We do not need to change the laws in order for this to somehow magically then come into play. There is also Creative Commons, with which a Creative can actively promote Fair Use availability of their work. The proposed changes feel as though they will be designed to benefit the few at the expense of the Creative Community, and that is something that no Government should stand for.

In order to ensure that Australia is taken seriously by its own Creatives and for it to be seen as a major player on the World stage then Intellectual Property rights need to be taken seriously and respected by the Australian Government. The proposed changes only serve to muddy the waters and further complicate Copyright and Intellectual Property Law and at the end of the day the only people who will truly benefit are the Lawyers who will seek to interpret the obvious vagaries in the proposed changes to benefit whichever client pays them



the highest salary, be it a company or individual disputing Copyright ownership or the Creative trying to protect their Intellectual Property. The proposed changes will not promote innovation, but rather stifle it as Creatives seek other avenues, most likely overseas, in which to publish their work so that they can retain ownership of their work and benefit from it within their life-time – however long that may be.

Sincerely

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