

1/6/16

Submission to the Productivity Commission Draft Report (April 2016) –
Intellectual Property Arrangements

I am writing to strongly object to the recommendations made in your draft report on Intellectual Property Arrangements, which was released on 29 April 2016.

Who am I?

My name is Ruth Clare. I am the author of *'Enemy: a daughter's story of how her father brought the Vietnam War home.'* It is a memoir of my violent childhood and an exploration of the impact of war and PTSD on veterans and their families.

My book was only published in March this year, but it is a topic of great interest to many other victims of domestic violence as well as sufferers of PTSD. I am at the very beginning of my journey in an industry (i.e. the publishing industry) that allows me to contribute to these important social issues in a meaningful way. Anything that destabilises that industry has the potential for ongoing social impacts that I do not believe are being considered.

My major concerns are as follows:

1. Term of Copyright

While I understand that it is not possible for Australia to reduce the term of copyright to 15-25 years as proposed in your report, due to a range of free trade agreements, the recommendation was nonetheless very disturbing to me as an author. I have the right to retain ownership of my work in the same way that any individual may maintain ownership of any other business that they have built and it is very concerning that your report is apparently underpinned by the belief that this should not be the case.

A book is the invention of an author. Would any other invention be treated in this way?

Also, the idea that any person other than myself might have the potential to profit from my life story while I might be excluded from benefit is morally repugnant.

2. Parallel Importation Rules

Your draft report proposes a change to Australia's parallel importation rules for books. I believe, however, that the current system has sufficient safety nets in place to protect the interests of the consumer, while still allowing myself and my fellow authors to retain control of their rights and income and enjoy a level playing field with our fellow authors in the UK and USA.

The proposed changes are about driving down prices, but no consumer is restricted from purchasing for the cheapest price from alternative channels. The proposed changes don't make sense.

3. Fair Use

Territorial copyright helps publishers manage risk and support the creation of new Australian stories. Without these rules, as an author, I would lose income and the support of a vibrant local publishing industry.

Australian law currently sets out a series of clear exceptions to copyright restrictions under "fair dealing". This is a fair arrangement that works well for all parties, including authors. If this were to change to the American-style system of fair use, however, I would not only lose valuable income, but would also have to pay the litigation costs if I discovered free copying that I considered to be unfair usage. This would be beyond my means and beyond the means of most authors.

I, along with thousands of Australian authors, am deeply concerned that these changes will affect my ability to continue to write, earn a living and find a publisher. I respectfully ask that you reconsider your position.

Kind regards,

Ruth Clare