

# Jeremy Fisher



30 November, 2015

Dear Productivity Commissioners,

I write with regard to your inquiry into Intellectual Property Arrangements.

I am a writer. I am also a professional scholar working through the University of New England, but this letter is written from a personal viewpoint.

As both a writer and a scholar I work with intellectual property, some of it my own and some of it belonging to others. As a researcher I am conscious that I must not infringe the rights of others, even when there is no financial element in place. Scholars respect and acknowledge the work of their peers. All scholarship is built on the intellectual framework established the continuous dialogue between researchers. In the current environment, I do not feel constrained in my research by the manner in which intellectual property is treated in Australia. I particularly appreciate that statutory licences in Australia give me the freedom to offer a range of resources to my students without the burden of having to seek permission for their use. In countries such as the USA this would be a serious impediment to teaching and would prevent me providing a wide range of resources to students at no cost to them.

In addition to my scholarly works, I produce numerous works of fiction and short fiction. I have earned some income from rights sales for some of these works, but like most writers in Australia I cannot live from the income from my writing. However, I have earned royalties over a number of years from both print and ebooks (ebooks sales are an increasing revenue stream); I have received royalty advances which have assisted me to complete works; I have negotiated appropriate fees for commissioned work; I have received lending rights payments over a number of years; and I have received payments for works copied under statutory licence provisions of the Copyright Act. Without Intellectual Property Arrangements, none of this would have been possible.

I do not believe that current intellectual property arrangements in Australia hinder innovation or creativity. However, they are balanced against creators. Individuals such as myself are powerless to resist the egregious terms offered by publishers and others. We have little ability to negotiate. The intellectual property laws do not provide a level playing field. We need to have our intellectual property right made inalienable by contract, as is the case with moral rights. For me, the loss of my ability to claim payments statutory licences because a publisher insists that I sign a clause assigning such payments to it is difficult to resist. The publisher has all the power. The solution would be for the Copyright Act to ensure that such rights were always mine and can never be taken from me.



The Productivity Commission would do well to look at how individual creators lose their ability to earn as much as they might from intellectual property rights because they are forced to deal with partners who seek to exploit them. The weak need protection from the entrepreneurs. However, a body such as the Productivity Commission with its focus on so-called 'free' markets and economic 'rationalism' is unlikely to favour the disenfranchised.

Yours sincerely,  
Jeremy Fisher

