

4 December 2015

Intellectual Property Arrangements Inquiry
Productivity Commission
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SUBMISSION BY THE PRINTING INDUSTRIES ASSOCIATION OF AUSTRALIA (PIAA).

Background:

The PIAA is the peak industry body in the print, packaging and visual communication industry. This includes the production of books.

Our interest in this inquiry relates primarily to the issue of copyright and the retention of current retention of restrictions of parallel imports (PIR) as a means of protecting the legitimate rights of authors and publishers.

In dealing with this matter the Association works closely with the Australian Publishers Association (APA) and supports the broad thrust of its comprehensive submission.

Scope of the Inquiry

Following a review of the Scope of the Inquiry the Association believes PIR and the maintenance of a sustainable domestic book industry are relevant for the:

1. retention of an effective national innovation system
2. promotion of the overall wellbeing of Australian society, through the protection of jobs and promotion of stories that reflect Australia's cultural identity
3. promotion of convergence and investment in multiple communication channels through collaboration
4. maintenance of access to an increased range of quality and value goods and services;
5. provision of greater certainty to businesses investing in book production
6. provision of incentives for innovation and investment, including innovation that builds on existing work, and production of creative works;
7. provision of efficient, effective and robust IP system through time, in light of economic and technological changes

The Australian Market and Parallel Importation Restriction

Australian law recognises the right of copyright owners to control the distribution of their products in Australia. Those rights are the basis on which publishers invest in the editing, production, marketing and promotion of a title. The Copyright Act 1968 (s. 37) restricts the importation of books without the permission of the copyright holder. It prohibits importation of commercial quantities of a title that a publisher holds the rights to publish in Australia, provided the title is made available to the Australian market within 30 days of its release anywhere in the world and (if published in Australia within that period) provided the Australian copyright owner is able to supply copies within 90 days of being requested to do

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so. Importantly, section 37 doesn't apply to individual consumers, who are free to buy books from any market in the world.

In 2012, the Australian Publishers Association and the Australian Booksellers Association entered into an industry-wide agreement known as the Speed to Market Initiative. Publishers agreed to allow booksellers to import books if the publisher is unable to dispatch an order within 14 days, rather than the 90 days to supply set out in the Act. For most major authors, local publishers are publishing in Australia simultaneously with international release.

Also, over the last decade, the average selling price of a book in Australia has fallen in real terms by a third and the changes in price-points show publishers have little control over market prices. Rivalry between similar titles keeps prices highly competitive and publishing firms do not enjoy above average rates of profit.

PIR therefore represent a low impact forms of intervention.

The Impacts of the Removal of Parallel Importation Restrictions

There are clear impacts to the removal of PIRs. The most significant impact will be to make investment in the Australian Book Production industry less likely. This require significant investment with long pay back sums of money and long pay back periods.

The attractiveness of investment is directly related to PIRs maintaining the integrity of Australian territorial copyright - without which, there is no value in holding Australian territorial copyright. If there is no value in holding Australian territorial rights, they cannot be sold. A fundamental of the international publishing trade is gone as is the incentive for domestic production.

The incentive to use Australian printers to establish and maintain territorial copyright for titles under the use-it-or-lose-it regime will be lost. With it will go a significant business for the print industry. Like the publishing industry, the Australian print industry has undergone massive transformation in recent decades. It is one of the few manufacturing sectors to have done so successfully. To remove a significant proportion of business from an industry, already challenged by the growth of the eBook and the dramatic decline in the use of print for the educational sector, will seriously damage the industry – an industry that has just been through a phase of major infrastructure investment in order to adapt to competition, particularly from Asia.

Conclusion

The IP issues associated with the writing, publishing, production and distribution of Australian stores is a highly complex supply chain.

The recent introduction of innovations in the last three areas show how new ways can be found to take Australian and international stories to the Australian community.

The Harper review indicated that market restrictions should be removed under the benefits were outweighed by the cost. PIAA believes that the current voluntary code is working effectively because of the existing restrictions on PIR contained in the Copyright Act. For that reason we believe they should be maintained.

Please contact me if you would like to discuss any issues raised in this submission.

Yours sincerely

Bill Healey