

INTELLECTUAL PROPERTY ARRANGEMENTS

I note that both of the Commissioners have a background in economics and finance, and neither has experience in the Arts.

I note also the terms of reference of the inquiry into Intellectual Property Arrangements, summarized as: 'their effect on investment, competition, trade, innovation and consumer welfare'. I note that the welfare of creators is not a consideration.

On P 18 I note the Commissioners' dismissal of the opinions of copyright holders: 'Not surprisingly, submissions to this inquiry from participants currently benefiting from copyright protection universally argued against the adoption of fair use in Australia.' It is clear that the Commissioners are fully aware that copyright holders would be adversely affected by 'fair use' provisions, yet the Commissioners views and recommendations are not influenced by this awareness.

On P 19, I note: 'In the Commission's view, enacting a fair use provision would deliver net benefits to Australian consumers, schools, libraries, cultural institutions and the broader community.' Again, the creators' interests are not considered.

On P 146: 'The concerns of authors that eliminating the remaining PIRs could chill local writing would be addressed by ensuring that direct subsidies aimed at encouraging Australian writing — literary prizes, support from the Australia Council, and funding from the Education and Public Lending Rights schemes — continue to target the cultural value of Australian books.'

This is frankly absurd. By the very nature of literary prizes, very few writers can receive them, and the Australia Council has been largely defunded. Furthermore, dependence on government grants tightens the control of government over what is created. Finally, the ELR and PLR schemes are there in recognition of copyright, the very thing the Commissioners want to undermine.

Such statements cause me to doubt the value of making a submission at all, since I am a copyright holder, whose opinions and interests are clearly outside the scope of this report and have been dismissed *a priori* by the Commissioners.

I would like to refute other statements made in the report, but have already spent more time on it than I can afford. In general, it seems to me that the Commissioners have attempted to cram too many aspects of IP into one Procrustean bed. Many of their

arguments about changes in the digital world do not apply to hardback books.

As an author with approximately 14 books and a number of stories and articles to my name, I receive relatively small returns through royalties.

The Commissioners recommend a reduction in the length of copyright to a mere '15 to 25 years after creation'. *Not surprisingly*, I strenuously disagree with this recommendation. I fail to understand the argument in its favour. It is surely not expecting too much to benefit from one's work during one's lifetime? The assumption that five years is the commercial life of a work is a misleading generalisation. Many classic books, and a few of my own, are still in print more than 20 years after creation. In view of the relatively small annual returns in royalties, an extended life not only goes some way to remediating the paucity of returns, but also demonstrates the value of that book to the public. It's not as if the public can't have access to our ideas and writings, or that our copyright prevents them from building on our ideas. They just have to pay for (or borrow) a copy of the relevant book, not reproduce a significant portion of its content without asking the author and, in the case of commercial use, pay something for so doing.

I, like many authors, frequently waive copyright fees, particularly when the request is for bona fide educational and other non-commercial purposes.

I did not favour the extension of copyright from 50 to 70 years after the death of the creator, which struck me as excessive, and I am happy for copyright to be reduced to, say, 25 years after the death of the creator, but in no case to expire within the lifetime of the creator.

Not surprisingly, I object to the parallel importation of books, the arguments against which the Commissioners are well aware of.

To conclude, I find the Commissioners' report insidiously biased against the interests of creators. The report's recommendations take little account of creators' needs and interests, which they treat as subordinate to those of industry and government. In my view, the Commissioners have failed to 'balance' the interests of rights holders with those of people who want to exploit their work without paying for it.