

Thank you for the opportunity to write in response to the Productivity Commission's draft report, Intellectual Property Arrangements, April 2016.

I'm an award-winning author of young adult (YA) fiction. My books are published by Pan Macmillan in Australia, and Hachette (Little, Brown) in the US and are translated and sold into several other international markets. My comments relate to sections of the report that pertain to book publishing, 'fair dealing', and term of copyright.

The proposed repeal of Parallel Import Restrictions (PIRs)

The draft report's recommendation (5.2) to remove parallel import restrictions no later than the end of 2017 would have the effect not of creating a level playing field, but of putting Australia at a competitive disadvantage to other English-speaking markets. It would not result in lower retail selling prices for books, but it would result in far fewer Australian books being published.

Books by Australian writers are a key part of Australia's cultural identity. Any country that wants to be at all relevant or competitive on the world stage must value and support its culture, its creators, and an ecosystem in which they can thrive, or at least survive. Australian writers and Australian publishers, if so valued, certainly warrant the same modest protection given to their equivalents in the US and the UK – that of territorial copyright.

The existing rules work well for local publishers: they have the right to publish local editions of international titles if they do so within a short timeframe of a book's publication elsewhere in the world; if a work is not available within that timeframe booksellers have the right to import that title from another market.

When local publishers publish Australian authors, under the existing rules, they do it with confidence that other English editions of those authors' books can't be 'dumped' into the Australian market. My publisher would have no motivation to invest in and publish an Australian edition of my next book if they knew that the US edition would be in bookshops, competing with the Australian edition. I would lose my ability to give my Australian publisher the exclusive right to manage my work in the local market. In this scenario, all the employment and investment that flows from a book being published locally would be lost; all the editorial staff, designers,

accountants, administrators, marketing staff and publicists, printers, distributors and sales personnel benefiting from the production of each manuscript into a book would be American, not Australian.

The current system works well for established writers because they can sell books into individual territories and build income. The current system works well for new writers because when Australian publishers have stable economic conditions and diverse sources of income they are better positioned to take risks on commissioning new work by local writers.

The consumer within the current system not only has complete freedom to buy individual books from anywhere in the world, but is also guaranteed of local booksellers stocking local editions of international titles within a very short timeframe of them being available elsewhere in the world.

Booksellers are also well served, with either timely local editions available, or the freedom to import in cases where there is no local edition.

So the Australian writing, publishing and bookselling ecosystem remains healthy, and everyone benefits.

The argument that deregulated market conditions will result in lower book prices at retail is unfounded; it has had an evidence-based debunking in the New Zealand experience. Book prices did not go down as expected. Publishers left the country, far fewer local titles were commissioned, and countless jobs were lost. Book prices in Australia have gone down at a greater rate than book prices in New Zealand in the period following deregulation in New Zealand.

There are no benefits in changing the system, but there is a risk of killing the goose that lays the golden egg. The Australian book industry is worth in excess of \$2 billion a year.

It is pertinent to ask why on earth we would willingly risk the health of our local publishing industry, disadvantage our local writers, and forsake healthy revenue and employment by removing PIRs when our English-speaking market competitors, the UK and the US, have their own territorial copyright firmly in place, very sensibly so.

The Term of Copyright discussion

The draft report's expressed desire for the term of copyright to be reduced is alarming. Fortunately, the copyright term of the work of Australian writers is articulated and protected by our international commitments via various multilateral agreements, as noted on pages 509-514, but I am horrified that Australia would seek to be the country trying to influence the 'tenor and scope' of the rules with the objective of reducing the term of copyright (Table 17.4, p 475). Writers do such culturally valuable work for such poor remuneration; I reject the notion that, at any time in the future, we should be further disadvantaged by having our creative property in effect stolen. I strongly object to the proposal that Australia should lead the way (p 474) in such a retrograde, anti-art, philistine undertaking.

The proposed move from 'fair dealing' to 'fair use'

The draft report recommendation (5.3) to move from 'fair dealing', the current Australian system, to 'fair use' the current US system, would undoubtedly have a negative impact on authors' income. One way this typically affects writers in my field, young adult fiction, is that a school pays a small fee to copy a section of a novel for use in the classroom. To take away this source of income, which benefits authors without putting an undue burden on institutions, seems unnecessarily punitive, given that writers in Australia are among our lowest-paid workers, making an average annual income of \$13,000.

The logical, and entirely undesirable, end point here is that if you starve the people creating content (writers), the users/consumers of such content will eventually not have any new material to copy free of charge.

A few further thoughts

Australian books play a role in articulating who we are as a culture. A country's literature is a vital part of that country's voice. It is meaningful for people to have their own stories and literary tradition, including an indigenous tradition of storytelling and literature, and such traditions warrant protection. Understanding this should be at the heart of any discussion of changes to IP systems.

The draft report does not provide a view of the bookselling retail market that shows how small a percentage of the local market is currently made up of Australian books vs imported books, roughly a 1:9 ratio.

The draft report does not note that as an English-speaking country we are particularly vulnerable to product-dumping from the US and the UK in a way that non-English-speaking countries are not – that is to say, we do not have the natural protection afforded by a unique language with regard to safeguarding local authors, and local literary tradition.

Given its strong consumer focus, it is surprising that the draft report does not seek to measure or take into account the negative impact to consumers of a dramatic reduction in the number of Australian books published, which would be an inevitable consequence of the removal of parallel import restrictions. The report reads as though price is the key selection criterion when it comes to book purchase, and yet offers no current data regarding pricing trends in the Australian bookselling retail market. Australian retail book prices have come down in real terms in recent years.

In essence, the draft report suggests working towards a reduction in the term of copyright for authors and tossing everything into the public domain as soon as possible, so our most successful writers with books in print for the longest time would be the most disadvantaged; it proposes bringing in a system that substantially stops paying writers when their work is copied and used; and via the removal of PIRs it recommends taking away the opportunity for Australian publishers to publish international writers, and taking away Australian publishers' motivation to publish Australian writers; it proposes taking from Australian authors the territorial protection enjoyed by writers in other English-speaking markets such as the UK and the US.

Far from improving 'the overall wellbeing of Australian society' to use the terminology of the draft report, these suggestions, were they to be taken up, would severely diminish wellbeing. The contribution that Australian writers make to Australian culture and identity would be profoundly diminished. We'd soon start to look like a small offshoot of the US market. Australian children and teenaged readers would no longer be reading Australian characters and Australian settings in

Australian stories; they would no longer see themselves or their own culture represented in books.

I strongly support maintaining the current PIRs, the current term of copyright for authors, and current 'fair dealing' provisions.

Fiona Wood

Six Impossible Things (2010)

Shortlisted, Book of the Year, Older Readers, Children's Book Council of Australia (CBCA)

Shortlisted Young Australian Best Book Awards (YABBA)

Junior Library Guild Selection (US)

Wildlife (2013)

Winner, CBCA, Book of the Year, Older Readers

Shortlisted, NSW Premier's Literary Awards

Shortlisted, Victorian Premier's Literary Awards

Shortlisted, Queensland Literary Awards

Shortlisted, YABBA Awards

Longlisted, Inky Awards (Centre for Youth Literature)

Junior Library Guild Selection (US)

Cloudwish (2015)

Winner, Indie Award, YA (Independent Booksellers Awards)

Shortlisted, ABIA Awards (Australian Book Industry Awards)

Shortlisted, CBCA, Book of the Year, Older Readers

Shortlisted, WA Young Readers' Book Award

Longlisted, Inky Awards