

02/06/2016

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.

I am Helena McAuley, an aspiring fiction author with a first manuscript for future publication. I have not yet had the opportunity to earn as an author.

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.

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.

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.

4. Personal and Cultural

Intellectual property is not only about income, though this is naturally of grave concern to authors and publishers. Intellectual property is also about the property itself. The proposed changes to copyright removed the creator from the piece, and allows it to be reproduced and manipulated without consent. This could encourage further loss of income, but is also a grave worry of mine, as the process of creating Australian stories is one that involves a lot of emotional investment. I, and many authors, would kill a project, rather than lose creative control. When it can take up to 5 years to create vibrant characters and story that will stay with you your whole life, 15 to 25 years is too short a time before you lose them.

The repeal of PIR did harm to the New Zealand publishing industry, harm that would see unpublished authors without the opportunity to have their work considered by an industry that is being attacked on all sides. I believe the repeal of PIRs in Australia would significantly restrict my chances of being published, as it is too risky to take a chance on an unknown. As a consumer of books, PIRs do not restrict my choice in books, nor disadvantage me economically.

Changes to copyright, PIRs, and Fair Use rules are likely to impact the number of Australian books that are published, and restrict the number of new authors published, further. This takes away Australia's voice. Australia is a unique identity in the world, but without a cultural voice, even within it's own borders, that culture will be eroded. Long term, it is art that survives to show a culture in time and place, not economic decisions. Disadvantaging new authors will stagnate and homogenise the culture, with impacts that will be felt far in to the future.

Do not cause long term harm for short term gain.

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,

HELENA MCAULEY