

## **PanteraPress Submission**

*Pantera Press is a Boutique Australian Book Publishing House Focussed on Nurturing the Next Generation of Australian Writers*

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*The Productivity Commission (PC) suggests Australia repeals Parallel Importation Restriction (PIR) legislation, and reduces the period of copyright protection for books among other proposals detailed in its recent draft report on intellectual property.*

If the PC's proposals are taken up by the Federal Government, they seriously risk stifling Australian writing culture and storytelling.

By removing parallel importation restrictions and decreasing the period of an author's copyright, the government would be making it an even riskier business proposition for Australian publishers to invest in Australian authors. And equally, they would be disincentivising Australian authors to continue writing (in Australia).

Simply put, if this proposal were to go ahead, we risk seeing fewer and fewer Australian stories, perhaps no new *Cloud Streets*, no new *Possum Magics*. The next generation of Australians could well grow up in a world where they'd never encounter a new Australian story or great read written by a talented Aussie.

### **Australian stories are not cars or drugs**

The PC would like to see book accessibility increase and the price of books decrease.

First, while those objectives are worthy, the PC ignores the fact that both of these have already been happening over recent years without its intervention, through market forces and a highly motivated and responsive book publishing industry. (See below.)

Second and worse, the PC fails to consider the crushing cultural consequences its proposals would impose on this creative, innovative arts industry. It flaunts its illusory benefits but it neglects a foundational cost.

The economics of the Australian book publishing industry are different to those of the manufacture of goods. Simply put, the creation and promotion of Australian stories is not the same as the manufacture of garments or cars. The nation's cultural benefits from publishing Australian stories and Australian authors are crucial to who we are and who we want to be. Yet the PC has ignored this.

Stories are not life-saving drugs either (where there may be a public interest in a shorter period for intellectual property protection). While stories can often improve a life, people buy stories because they want to experience the joy or the thrills inside a book's covers, an experience someone has worked years to create and an industry has worked hard to bring to their attention. The PC's views on what is a reasonable period for copyright protection is entirely unreasonable, especially given the cultural costs.

### **Prices and accessibility of books**

As noted by the [Australian Publishers Association](#) book prices in Australia are already globally competitive/comparable.

The disparity quoted by the Commission is based on research that is nearly 10 years old. Australian books are now similar in price to comparable markets. Over the past decade, Australian book prices have fallen by a third in real terms. Additionally, the range of books sold to Australian consumers has grown by 15%. Plus, speed to market of foreign books has reduced from 30 days to 14 or less (and is often 0).

The PC report proposes two key ways to potentially lower prices.

### **Author's Copyright Term**

One of the PC's proposals is to drastically cut the period of an author's copyright to 15-25 years from the day the work is written (rather than the existing term, 70 years after the author's death).

[Sulari Gentill](#), the award-winning Australian author of Pantera Press's [Rowland Sinclair mystery series](#), points to the unfairness of this with a great analogy in her [submission to the PC](#).

To paraphrase, Sulari argues that if we were talking about housing (and not books) the PC would argue that because Australians move house every 5-10 years, no one should be allowed to own a house for more than 15-25 years. That after this "optimal" period, the house would be available for anyone in the public to use at no cost. And of course, no one could bequeath their house to their own children. This approach would definitely make housing cheaper... Who would pay current market prices for a house if title to it only lasted for 15-25 years? Who will bother investing in foundational concerns like concrete cancer if it won't be reflected in house prices ... or who will take the risk on building new houses if ownership is so transitory. The quality of housing stocks would deteriorate and the number of new housing starts would plummet. So while yes, the PC proposal will impact price, at what cost?

Then there is the Author's *time to create* and *time to earn*. Many Authors devote years if not a decade before they see their first book written and published. For many, it's years before their next book is published. If they are fortunate enough to develop a long tail of sales for their works, why would the PC deny Authors that source of return for their efforts? For many Authors, their "tail" will be their only form of superannuation. Does the PC propose that a small businessperson should not be entitled to reap the benefits of his or her milk bar after 15-25 years if customers wish to continue frequenting it?

### **Repeal of PIR**

Another PC proposal is to repeal parallel importation restrictions.

Currently, at Pantera Press if we discovered a wonderful author, let's call him Tom, and published his first novel "*Best Novel Ever*", we could distribute this novel into other English speaking markets like the US and UK. However, it makes more sense if we sell the foreign rights to a publisher who operates in and really understands the relevant market, who knows the shifting buying habits and trends of their book

buyers, and who also has strong relationships with the local media and sales channels there. So if we sold the US rights to an American publisher, they would pay an upfront fee and then a royalty for every book they sell in America.

It would be wrong (and a breach of contract) if we then tried to sell copies of *“Best Novel Ever”* directly to specific American bookshops – because the US publisher has bought the exclusive rights to publish the book in America. Plus, we sold the rights to them to advantage total book sales. Cannibalising our US publisher would cut off our nose to spite our face.

Similarly, a US publisher might sell us the Australian/NZ rights to a fantastic American author they have published – for similar reasons.

With Television shows, it’s often frustrating when a new episode airs in the US and then viewers have to wait weeks if not months for it to be legally available in Australia. However, with books those kinds of delays are no longer the case. Our existing “speed to market” rules require an Australian publisher who buys the Australian rights to a foreign book to publish it within 14 days of its foreign release date, but often it’s simultaneous. (Although we should note that individually consumers are free to buy books from any market in the world).

The PC proposal to repeal PIR would create an imbalance that advantages foreign companies to the severe detriment of Australian publishers and authors.

Using the above example, the US’s territorial copyright rules would stop Pantera Press selling copies of *“Best Novel Ever”* into the US. Yet if that US publisher misjudged the US market and printed too many copies, it could then dump them into the Australian market. In theory that sounds like a great way to get cheaper books into the Australian market. But there are big costs:

- If a publisher prints more books than they can sell, they will often “remainder” the excess stock. Remaindered books are mostly sold off to specialist firms who buy them for a miniscule amount to re-sell them at pop-ups, fairs, markets, book clubs etc at very cheap prices. No income or royalty from remainder sales come to an author.
- Again, using the above example. If the US publisher of *“Best Novel Ever”* printed 1,000,000 US copies but found that 100,000 hadn’t sold, they could “remainder” those 100,000 copies. The US publisher would receive a small amount to help defray its costs but none of that would be shared with the author or us, the Australian publisher. That makes sense if these excess “remaindered” books are only sold in the market that was already over-supplied (in this case, America).
- However, without PIR, the remainder company could then flood the author’s home market, Australia, with those books. That would mean that the Australian editions of *“Best Novel Ever”* would stop selling (because there were far cheaper US editions here). It would also mean that the Australian author, Tom, and us, their Australian publisher could no longer make money from the Australian editions (as they are not selling) while equally making no money from the US remaindered editions being sold into Australia.

The result is Authors unable to earn income from their work and Australian publishers unable to make returns on their investment in Australian authors.

Repealing PIR actively disincentivises Australian publishers from investing in Australian authors. It actively disincentivises Australian publishers taking Australian

stories to the world where they lose control of the publishing process. It also disincentivises Australian authors from writing (or at least trying to publish their works in Australia).

Artists' incomes in Australia are already, on average, incredibly low at under \$13,000 per annum. Do we want them to be even lower?

It should be noted that while a US publisher might purchase the rights to Tom's "*Best Novel Ever*" this is generally based on an assessment of how well it has been received in our domestic market first (that is, the initial investment in the author by the Australian publisher e.g. curation, editorial work, marketing and publicity strategy and implementation). The likelihood of a foreign publishing house investing in Australian authors with no track record in Australia is significantly slim.

New Zealand went down the path of repealing Parallel Importation restrictions some years ago and it did not increase book accessibility nor did it lead to a decrease in book prices.

So what will we see if these PC proposed changes go ahead?

- Fewer new Australian authors
- Fewer new Australian books published
- Jobs lost in Australian publishing, bookselling and printing
- Decreased income for Australian authors