

## **Submission by Australian Fiction Writers**

### **addressing the Productivity Commission draft report on Intellectual Property Arrangements April 2016**

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Australian Fiction Writers is a network of 188 Australian authors who meet online through Facebook to advise and support each other professionally.

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We wish to address the copyright issues raised in the Productivity Commission's draft report on intellectual property arrangements in relation to authors.

#### **1. Copyright protection for 15-25 years only**

Authors currently expect to receive an income from royalties for published works for life and after their death for their heirs to continue to receive it for some years.

Royalties from a single title are in most cases not enough to live on; it is the accumulated royalties from multiple titles that accomplish that. If royalties stopped because copyright on titles begin to reach their cut out dates then authors must continually produce new titles and hope they sell as well as their older titles. Yes, many authors are prolific producers, but not all fall into this category.

The life of an author is hard in terms of achieving critical and financial success. To keep writing without realising those goals takes determination and fortitude.

**To say that most authors do not write for monetary gain is a myth. Every author's aim is to make a living from their writing.**

That they know it is difficult to achieve is another matter entirely. You only have to frequent the online writing groups to know that the first questions a new author asks of longer-term members are: "How do I make sales? How do I make money?"

Gone are the days when an author's role in a book finishes after they have written it and handed it to their publisher. Gone are the days when the publisher does all the subsequent work of promoting, marketing and selling. In today's global self-publishing environment authors do everything for themselves: they write, promote, market and sell. They have total control. Yes, some authors continue to use publishers but since the digital revolution many prefer to retain control by doing it all themselves.

And the number of new authors continues to explode as new authors discover they do not need a publisher.

- [Author Earnings](#)—this is an online site whose "*purpose is to gather and share information so that writers can make informed decisions. Our secondary mission is to call for change within the publishing community for better pay and fairer*

*terms in all contracts. This is a website by authors and for authors.*”—regularly investigates and publishes trends concerning [indie authors versus traditional publishers](#).<sup>\*</sup> Their findings show that the market segment of indie authors and their earnings is ever-growing: [February 2016 report](#).

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- [Mark Coker](#), founder of Smashwords, a global book e-retailer, on 16 April 2016, noted that the number of books available for sale on Smashwords has built to 400,000 in only eight years; that is 400,000 indie books, meaning books by independent (self-published) authors.
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- A 2012 online [The Guardian](#) article on the subject says as many as a quarter of the top 100 Kindle books on Amazon.com are from indie publishers. More recent figures could not be found but the ratio would be continuing to grow in favour of indies.
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## **2. Studies show Australian consumers systematically pay higher prices for e-books**

The studies referred to have to be out of date. Book purchasers have for some years been able to purchase e-books direct from global sites such as Amazon, Smashwords, Barnes & Noble, Apple, Google and Kobo. Prices are not different for international consumers, except in as far as exchange rates alter prices.

## **3. Commercial life of 5 years**

Many authors today independently publish their own works with global e-retailers such as Amazon, Smashwords, Barnes & Noble, Apple, Google and Kobo. They suffer no restrictions by third parties such as publishers on the length that their works remain available to the public.

Therefore the argument that books will have a commercial life of only five years is not supportable. Authors are able to keep their books available for sale to the public for as many years as they wish to and they do so.

- As authors publish more books their backlists becomes increasingly important as readers new to their work look for other books by them to buy.
- As self publishers, authors recoup 100% of royalties, which is far in excess of the share of royalties passed on to them by publishers.
- It would be indescribably unfair to authors, who work hard to write and produce their books, to arbitrarily take their books from them, to say they no longer have control of them.
- Authors own the work they produce. They create it, they make it, they sell it. It's theirs. They own it. Just as any other producer who creates, makes and sells a product to the consuming public. To differentiate between producers of goods would be discriminatory.

## **4. Poor access to books**

How does the Australian reading public suffer in the modern global book market? They have the ability to purchase books ‘hot off the shelf’ from overseas the moment they are published and made available. Global e-retailers have made this possible.

## **5. Access to cheaper goods**

E-books prices are now very cheap for all consumers including Australians. According to [Mark Coker](#) \$2.99 is the common pricing point. Many books are priced even lower.

## **6. Removal of perpetual protection of unpublished works**

There are reasons why books are unpublished. In this age of independent (self-published) authors publishing their own works the primary, if not only, reason is that the author believes the work to be unready for publication because they are not satisfied with, for instance, quality of writing and research. To remove the protection that copyright in unpublished works gives a work is to remove the author’s ability to have quality control over their work. It would be an author’s worst nightmare to see work they deem ‘not ready for publication’ in the public domain and open to scrutiny and criticism that it is not up to their usual standard. Authors must have control of all their work, including that which is unpublished.

## **7. Other countries copyright periods**

A quick scroll through Wikipedia’s [List of countries' copyright durations](#) will show that the overwhelming number of countries’ period for author copyright is Life + a number of years, mostly 70. Why should Australian authors be disadvantaged and discriminated against in relation to their counterparts throughout the rest of the world?

## **8. The Australian Competition and Consumer Commission**

Via the competition provisions of the *Competition and Consumer Act 2010* (formerly The Trade Practices Act 1974), the ACCC works towards ensuring a level playing field in the business competitive environment.

What does this mean?

It means that in a competitive environment markets must have the same rights, responsibilities and advantages as those they compete against.

Are creators of artistic works such as authors creating written works and operating as small businesses and sole traders to be treated differently? Should they not also have the advantage of a level playing field?

Yours faithfully

Australian Fiction Writers

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\* Indie authors: This is the current term for authors who publish independently, i.e. who self publish.