

MELBOURNE · UNIVERSITY · PUBLISHING



MELBOURNE UNIVERSITY PUBLISHING LIMITED
Lvl 1, 11 – 15 Argyle Place South, Carlton, VIC, 3053 Australia

Telephone +613 9342 0300
Facsimile +613 9342 0399

mup-info@unimelb.edu.au
www.mup.com.au

1st June 2016

Productivity Commission,
GPO Box 1428
Canberra City,
ACT 2601

The Commissioners.

Re: The Productivity Commissions draft report on Intellectual property

In preparing this submission we reviewed the submission made by Melbourne University Publishing (MUP) in 2009. In the five years that have elapsed the logic underpinning the arguments against the abolition of the current parallel importation regime has been confirmed. The retail environment has changed with pressure from offshore online retailers, an increasingly unequal playing field for the local industry, the average annual author's income has declined even further in real terms, and the costs of doing business in Australia have increased.

Publishers in Australia have adapted, as we always do to the changing realities, but the Productivity Commission's *idée fixe* that the abolition of territorial copyright will deliver cheaper books to consumers has remained unchanged over successive reviews. It is odd that despite the changes in the marketplace, the Commission's views have not been moderated or nuanced since its very first review conducted when GST was imposed. It suggests the Commission has an ideological agenda rather than the ability to provide an objective view of the challenges facing the book industry.

For nearly 30 years now governments have routinely brushed the cobwebs off the file marked "Australian book publishing". Perhaps after the continued failure to make a dent in the pharmacy and newsagency cartels publishers look like an easier target. They certainly have less lobbying power.

In November of 2008 the Productivity Commission was asked to investigate whether the restrictions on the parallel importation of books are anti-competitive. The Commission's report failed to prove that books are too expensive or that change would deliver cheaper books.

Now, in 2016 the Commission is rehearsing the same furphy, that publishers are greedy profit merchants diddling consumers.

It's all a bit odd really. The Australian publishing industry is a profitable \$2.2 billion business, Australian writers are lauded at home and abroad and Australian consumers are well served by a diverse and competitive book-retailing sector.

Yet in spite of the existence of a vibrant book industry, myths prevail about greedy authors and inefficient publishers. Why do these myths persist when the average salary for most writers is a paltry \$13,000 per year? When we operate in a highly competitive market where profits are limited for both publishers and booksellers and every book competes against every other book for retail space and consumer attention.

The latest attempt to meddle with the industry is based on the counter-intuitive fallacy that publishers prefer our books gather dust in our warehouses. In reality, the business is predicated on producing the best book and getting that book bought by a customer as quickly as possible. That is how we realize on our investment. Business 101 I would have thought.

Let's rewind briefly to the Bad Old Days, when British publishers automatically "owned" the Australian market. They decided when Australian readers would receive which books. But in the 1970's that changed: we discovered an appetite for our own stories. Local writers found local publishers and booksellers who would enthusiastically hand sell the latest signed copy of a novel because they had actually met the author.

The Australian book business grew because we grew new readers and developed our understanding of the supply challenges of demography and geographic expanse. So today there is fierce competition in the Australian book market. Complacency isn't an option because there is always a more agile publisher with deeper pockets on the next block, or a bookstore with greater market share and more discount to offer.

Publishers must balance supporting the launch of a new writer's career with hardy perennial winners, its called portfolio management. Australian writers have publishers who proudly take their books into the world market. And those same publishers source international books for local readers. It is an exchange of intellectual capital. It is also a business model that manages risk and reward, investment and return.

The book business is predicated on the basic commercial principle – that an author grants a publisher a license to exploit a copyright in a particularly territory for a specified period. The publisher pays the author for that license and then commercializes that opportunity. Territorial copyright has long been a fundamental international convention enshrined in intellectual property legislation adhered to by every western nation.

It has taken us 30 years to seize control of our own territory and to break the British stranglehold on the commonwealth as part of a bundle of publishing rights. It is an

undignified argument that Australian publishers continue to wage on every book deal we strike with American publishers. Winning that argument, asserting Australian territorial copyright, is in the interests of Australian writers and readers and the industry that serves them.

In 1991 when the Australian book culture had begun to flourish, the government decided Australian publishers were too slow to bring international titles to the local market. A 30-90 day rule was introduced. Publishers were given a maximum of 30 days to establish territorial copyright and 90 days to re-supply out of stock titles. If publishers didn't act on that copyright, booksellers could import any edition of any book from anywhere in the world. The hapless booksellers were even granted the right, whatever the copyright conditions, to fulfil any order from any customer or any single title at any time.

The 1991 ruling was a win-win for booksellers, and a win-lose for publishers. The intention of the reform was to ensure that Australian consumers had access to books in a timely manner. But in reality market pressures and improved technologies were responsible for ensuring simultaneous publications for all major international titles, not government fiat.

From the printing press through to the Apple tablet, publishers have continuously re-invented themselves, their products and their means of distribution. Fifty years ago books were hardbacks, twenty years ago they became mass-market paperbacks. Now the printed word can be distributed via a plethora of pipes, platforms and widgets.

The Australian publishers I know and admire are innovative, creative, and responsive to change. They wouldn't have survived otherwise. So let's get the side issues off the agenda. Availability is a non-issue. The world's books are now available in Australia in a timely fashion. No reader needs to wait a year for a British publisher to finish his sherry, adjust his cravat, and ship his overruns to the colonies.

Customers aren't storming their local bookshops demanding faster service or complaining about the mark up on the publisher's recommended retail price that major retailers routinely impose. Price has proved to be a non-issue.

The real issues lie elsewhere. The Australian book business is a national and international industry. The current copyright regime ensures that Australian writers are read both here and abroad with the support of innovative and commercially minded publishers willing to take risks and invest in building a community of readers for these authors. In the digital era and globalised marketplace Australia's copyright regime needs to be strengthened rather than abolished. If the expertise and professional of local publishers counts for nought, we suggest the Commission consider the intellectual property regimes of other major English language markets, the idea of abolishing the intellectual property rights of their citizens would be viewed as absurd.

I urge the Commission to respond to the informed arguments assembled by writers, publishers, printers and booksellers and reconsider its recommendations. It is in the

national interest that the current regulatory framework for the protection of Australian territorial copyright be retained.

Louise Adler
Chief Executive
Melbourne University Publishing.