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Submission to the Productivity Commission Draft Report (April 2016)—Intellectual Property Arrangements

I strongly object to the recommendations made in the Productivity Commission's draft report on Intellectual Property Arrangements, and am dismayed at some of the assumptions underlying them.

I am the author of three books of literary fiction: two novels, *Elemental* (published in Australia by UWA Publishing in 2013 and in the UK by Scribe in 2016) and *The Sinkings* (UWA Publishing, 2008); and a short story collection, *Inherited* (UWA Publishing, 2011). I am also an Accredited Editor (Institute of Professional Editors) and have also worked in the publishing industry for 30 years as a freelance book editor.

My future as a writer and editor is closely bound with the future of the Australian publishing industry. If the Productivity Commission's recommendations concerning Australia's **parallel importation rules for books** were to be given effect, that industry would suffer a blow from which it might never recover. Small publishers—often the ones publishing the most exciting and innovative new works across all genres—might well disappear. Fewer books would be published—certainly fewer works of literary fiction. Authors other than those whose books are guaranteed to sell in large numbers (something few writers of literary fiction can achieve) would find it extremely difficult to be published, regardless of the quality and vibrancy of their work and the contribution they make to Australian culture. The diversity of Australian stories finding an audience would contract significantly. In this scenario, it is unlikely that my own books would have been published, nor most of the books I have been privileged to edit over the last 30 years.

Territorial copyright creates an environment in which publishers can balance their need to maintain commercial viability with their desire to support the creation of new Australian stories and introduce new Australian voices. The current system is fair and reasonable in protecting the interests of consumers, while still allowing authors to retain control of their rights and publishers to manage their risk.

The proposal that Australia adopt American-style **'fair use' exceptions to copyright restrictions** attempts to undermine the spirit of current Australian copyright law, which recognises that creators have a right to earn income from their work and are always vulnerable to free copying and use. If the proposed changes were made, the onus would be on us to prove the notion of 'unfairness' in court should we become the victim of such practices. The costs of litigation would be prohibitive in the case of

most authors: we would simply lose out, and there would be very little disincentive generally to prevent unauthorised use.

The recommendation to **reduce the term of copyright** to 15–25 years is simply unfathomable to me. In what other area of endeavour would it be considered reasonable that an individual who has invested time (measured in many years), resources and talent in creating and developing a product or a brand be stripped of ownership of that product or brand during their lifetime (and of the right to bequeath it to others thereafter)? I understand that free trade agreements make it impossible for Australia to reduce the term as proposed, but the Commission's belief that this *should* happen reflects an assumption about the rights of authors that is as alarming as it is baffling.

The proposed changes represent a serious threat to Australian writers, Australian stories and the Australian publishing industry that brings them together. I ask that you listen to the submissions of authors and publishers, recognise the consequences to our livelihoods and to the Australian public, and reconsider.

Sincerely

Dr Amanda Curtin