

The Australian Booksellers Association Submission to the Productivity Commission - Intellectual Property Arrangements

Submitted by Joel Becker & Tim White on behalf of the Australian Booksellers Association

About the Australian Booksellers Association

The Australian Booksellers Association (ABA) is the peak membership body promoting the interests of booksellers in Australia. Established in 1924 as a Federation, the ABA now acts as the national body representing Australian booksellers. Members range from independent bookshops to chain and franchise shops, as well as specialist, second hand, academic and educational booksellers. We have approximately 600 bookseller members representing between 6,000 and 7,000 owners and employees.

Australian Booksellers Association position on Parallel Importation Restrictions

The Australian Booksellers Association is absolutely committed to the retention of existing Parallel Importation Rules (PIRs) and believes that this is the best way to ensure that Australian readers have access to the widest range of publications in the most forms at a fair and reasonable price.

The elimination of PIRs will have a significant negative impact on small to medium retail bookshops continuing to trade, and by extension, reducing the quantum of Australian publishing, having a further flow-on effect on jobs and income generation for Australian publishers and Australian writers. The flow-on effect will limit access of readers to books, potentially decreasing literacy and making the nation culturally poorer.

Current Parallel Importation Practices

Availability of internationally published books

In May 2012, following the wide-reaching work of the Book Industry Strategy Group and the Book Industry Collaborative Council, the Australian Booksellers Association and Australian Publishers Associations negotiated a unique voluntary 14/14 day Speed to Market Agreement. This agreement superseded the legislated 30/90 day code.

The legislation was not legally changed; however, the industry, with the knowledge of government, agreed to abide by this agreement, and that has been the case for the last four years. Retailers, publishers and consumers have benefited from better supply, better pricing and a better self-regulated industry.

Currently Australian publishers, under the agreed code of conduct with booksellers, have a maximum of two weeks to release an overseas title after it is released in the USA or UK. If they do not meet that date booksellers are free to parallel import that title.

Consumers can freely import copies for themselves at any time.

Increasingly major international titles are released simultaneously in the Australian market, providing world wide release availability for all readers.

"The repeal of PIRs will likely lead to an increase in the price of books and limit local access to a wide range of international titles."

– David Gaunt AM, Gleebooks

Book Prices

Prices have significantly dropped in relation to their country of origin prices over the last five years. There was a comparative price review done in 2009. At that stage, the Australian dollar was at parity with the US dollar and strong against the UK pound sterling. In spite of that prices were substantially above what booksellers and the reading public thought was a fair conversion. Since then two things have happened:

- The value of the Australian dollar has slipped to between 70 and 75 cents US and less than 50 pence. Counter to that decrease in the value of the Australian dollar, prices have actually dropped in comparison the overseas converted price.
- Book prices have become much more competitive with overseas editions in their original currency, and fairer for the consumer over the last five years.

Any exposure to fluctuations in exchange rates are borne by the publisher/distributor within Australia, ensuring more stability and certainty in margins for local booksellers.

In determining the proposals in the draft Productivity Commission report, bad and out-of-date is being used from the last Australian Bureau of Statistics report (2004) and the comparative price review 2009. This fails on all counts in due diligence. This is wholly unacceptable.

'Australian booksellers, authors and publishers have built a vibrant and sophisticated publishing industry. The repeal of PIRs will be like a dagger to the heart of that industry.'

– Mark Rubbo OAM, Readings Books & Music (2016 Australian & International Bookstore of the Year)

The Australian bookselling sector is one of the most vibrant in the world. Unlike much of the world, we have a healthy independent bookselling sector, which sits alongside successful chain and franchise operations, educational and academic bookshops and specialist booksellers. Bookshops operate in CBDs, suburban 'High' streets, shopping strips and malls, in country towns and regional centres.

“Bookshops are frequently owned by people living locally and employing local staff. They are anchor businesses in local communities around Australia.”

– Fiona Stager, Avid Reader,

Since the failure of the RedGroup bookshops (Borders and Angus & Robertson) in 2011, with the loss of 139 bookshops, and close to 2100 jobs, the number of bookshops has stabilised, with a small increase recorded over the last five years. These are just a few examples of existing bookshops that have expanded over that period:

- Readings Books & Music: Growth from 4 to seven shops by the end of 2016 (Vic)
- Avenue Bookstore: Growth from 1 to three shops by mid-2016 (Vic)
- The Sun Bookshop: Growth from 1 to two shops (Vic)
- Robinson’s Book: Growth from 1 to 7 shops (Vic)
- Avid Reader: Expanding from 1 to 2 shops Qld)
- Berkelouw Books: Several ‘brands’ including Berkelouw, Harry Hartog and Bookface – total of 15 shops, nearly doubling in last three years (NSW, ACT and Qld)

These are just a few of the shops that are expanding their businesses because of their view, based on sales and profitability, that the market has become much healthier.

There is also a strong Australian online commerce – both stand-alone online retailers like Booktopia and independent and chain booksellers who have a strong online presence, including Readings, Collins Booksellers, Dymocks, The Co-op and Gleebooks.

If the aim of the recommendations of the Productivity Commission is to ensure speedy availability and reduce prices by opening the market, it will fail on both accounts.

– Joel Becker, CEO, Australian Booksellers Association

Sales trends over the last several years indicate that readers, and consumers generally, still wish to shop locally if options are presented to them. The various ‘shop local’ movements across Australia drive home the point that there is a great deal of social capital gained by people who can walk or make a short drive to shops, see their neighbours and be recognised by their shopkeepers. Bookshops are a key component of that ‘shop local’ experience, and are active cultural and social hubs for their local communities engaging with schools, young readers, community groups and local charities.

Consumers are entitled to choice. Local bookshops importantly provide choice to consumers by stocking curated products relevant to their communities and having them available for immediate purchase. Removing PIRs will lead to a reduction in the number of books readily available to customers, and an increase in the price of books not readily stocked. It will lead to significantly reduced consumer choice and potentially lead to monopolistic behaviour by offshore suppliers and retailers.

"We would be unable to maintain the range and supply of specialist titles for which we are known – at reasonable prices – for immediate local supply in-store without the support and retention of PIRs, which turn lead to steady supply and stable pricing. Removal of PIRs would significantly reduce the ability of our customers to buy specialist titles in a proper retail environment where they can browse, choose, purchase or return books."

- Tim White, Books for Cooks, and President, Australian Booksellers Association

Simplistic price comparisons sell Australia short

When considering the ‘productivity’ of allegedly lower prices, if comparisons are made in a limited and narrow way (particularly on old, and now irrelevant, data) a number of significant factors are not taken into account, which should be, including:

- Australian booksellers contribute significantly to Government revenue by collecting GST, paying Australian taxes and employing Australians on a daily basis
- Australian booksellers contribute significantly to local communities, schools, charities and the cultural welfare of Australia by making donations, supporting valued not-for-profit organisations and championing the cause of a clever country by supporting reading, learning and education across all ages
- Australian booksellers champion the Australian literary industry and support and sustain local authors.

Ignoring these factors in pursuit of lower prices – based on bad data – will not make Australia more productive.

No price comparison should ever include Amazon and Book Depository

There has been a distortion in customer perception of what constitutes a fair price when they view the prices charged by online international book retailers like Amazon and its company-owned subsidiary Book Depository.

Steve Berman, a Seattle-based lawyer (located in a building with large offices adjacent to Amazon) lead a class-action suit against Apple and a group of publishers for their e-book pricing model. In an appearance on the PBS Newshour, in 2012, said, “...there’s nothing wrong with being a monopolist. And if Amazon could gain a monopoly share by offering the lowest price, and consumers want that lowest price, they’re enabled and allowed under the law to do so.”

Even if a case could be made for a monopoly, the model that Amazon has of buying market share by selling a whole category – books – at a loss is not sustainable, and will ultimately result in consumers (readers) paying the penalty for the lack of competition when prices go up and availability goes down.

What happens next?

The ABA and its constituent booksellers is actively engaging with the Australian Publishers Association on ways that we can improve upon a system that works. The 14/14 Voluntary Code of Practice was an example.

- We work with publishers on ensuring that data and the communication of data to ensure speed of supply and good information continues to improve.
- The APA has made significant improvements on TitlePage (TP), and to improve upon the accuracy and functionality of TP.
- We are exploring ways to ensure that the customer gets the best price possible, and are looking at examples overseas of linking Territorial Copyright to both availability (14/14) and pricing of the country of origin edition – and potentially having that be part of a legislative outcome.
- The Commonwealth Government has committed to removing the Low Value Threshold from 1 July 2017. This means that the 10% price ‘protection’ afforded to global entities like Amazon and Book Depository will be removed, making the comparison between the prices of books sold into Australia by these companies and those sold by Australian booksellers ten percent closer.
- Book Depository ships into Australia for free because Australia Post, bound by the International Postal Union Treaty obligations, charges the equivalent of a first class postage stamp for delivery to the door, whether the parcel is sent to Katherine, NT or in Sydney. Local booksellers pay Parcel Post rate for shipping. Once again there is a ‘protection’ for off-shore companies to the detriment of local tax-paying Australian businesses. This needs to be addressed.

Conclusion

We have an industry that has adjusted to so-called digital disruption. We have survived the highly exaggerated ‘e-book revolution’. We are surviving in spite of the unfair competition from offshore retailers who are prepared to take a loss on a whole category of ‘product’ (e.g. books) to grow their market share. Booksellers are amongst the most innovative retailers in the country.

Australian bookselling has a long and proud history, with many of our established businesses – household names like Abbey’s, Readings, Gleebooks, Hill of Content, Birchalls, Berkelouw – and others trading for forty, fifty, and in the case of Birchalls, more than 150 years. At the same time we have members opening new shops regularly.

Over the last year, just a few of the shops that have opened across the country include: Beachside Books in Avalon Beach NSW; Where the Wild Things Are, West End Queensland; Harry Hartog, Woden ACT; Bookface, Port Macquarie NSW.

We have a whole new generation of booksellers working in, managing and owning these businesses.

They are working in a creative industry; an industry with a range of career paths. By removing Parallel Importation Rules, there will be a serious, and deleterious impact on those careers, and the businesses they represent. This will trickle through from the start-ups of the last few years, the businesses that have grown, and the long-established businesses that have been serving their communities over the decades.

The removal of Territorial Copyright through the elimination of Parallel Importation Rules as a territory with market integrity would be a cultural and commercial disaster.

The government has a policy of innovation and being a clever country. It is counter to that policy to – without fundamentally sound evidence to support a decision – reduce the potential for access to books and information by placing further financial and access stresses on booksellers.

We submit that the current regime, supplemented by industry best practice as demonstrated by the 14/14 arrangements achieves the correct balance in so far as copyright is concerned between encouraging and supporting local businesses and publishers and ensuring fair and open consumer choice in the market place.

We urge the Productivity Commission to withdraw the recommendation to eliminate Parallel Importation Rules, and failing that, for the Government to reject the recommendation.

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