

## **Submission to Productivity Commission's Report on Australia's Intellectual Property Arrangements**

Scholastic Australia is Australia's largest children's book publisher with a turnover of \$110M, a staff of 400, publishing 600 books aimed at school-aged children every year.

### **Removal of Parallel Importation Restrictions**

The recommendation of the Productivity Commission to remove parallel importation restrictions on Australian books is not supported by Scholastic Australia.

The recommendation's primary intention—to lower the retail price of books in Australia by about 15% (we know this is the maximum outcome from New Zealand's experience following removal of parallel importation restrictions nearly 20 years ago)—would not offset the negative economic and cultural impact such a change would bring. With the retail prices of books in Australia having already dropped by around 25% in the last decade (with further reductions available to consumers in large retail chains of up to 30% off the recommended retail price) Australian books are not expensive (either in comparison to books in international markets or to comparative entertainment options). Any additional reduction in retail pricing (if achieved) would simply reduce bookseller, publisher and creator incomes and limit the breadth of Australian publishing.

Removing protections that allow our own literature to flourish will lessen the ability of Australian publishers to commission and pay Australian creators, and means that our children's bookshelves will be filled with narratives from other cultures (most likely from the United States and the United Kingdom). Their higher populations create economies of scale that allow them to print in greater quantities more cheaply, and removal of restrictions will flood our markets with their remainders. The financial result of this strategy is to send bookselling profits to offshore international companies, removing future revenue (including tax revenue from various sources (GST, income, company, payroll tax)) from Australia.

Scholastic Australia is partnered with a vast network of creators, suppliers and schools. Reduction in the number of books produced in Australia has an impact on associated industries—most notably printers, warehouse and distribution staff, transport and logistic staff, booksellers and literary agents. Creator income in particular will be impacted by payment of a lower royalty on sales of their books made in Australia by overseas' publishers (a practice not allowed under our current territory-based agreements with these publishers).

There will also be a direct impact on the provision by publishers of culturally-relevant books for young readers—a key publishing strategy for Scholastic Australia. Scholastic Australia makes a particular effort to publish novels, chapter books and picture books that feature Australia's history and our modern multicultural community. There is a concerted movement in publishing throughout the world to ensure that literature is inclusive and features a diverse range of characters and experiences, those that truly reflect and educate children about the world they live in. Only Australian writers and Australian publishers can truly record and reflect on the unique experiences of our nation.

Scholastic Australia is uniquely placed to understand the importance of reading in childhood and how this manifests in educational outcomes. In late 2015, Scholastic Australia, in conjunction with YouGov, conducted a survey to explore family attitudes and behaviours in Australia around reading. The key findings can be found here:

<http://www.scholastic.com.au/schools/ReadingLeaders/KFRR/about.asp> .

Through this type of research Scholastic Australia ensures that our books support and complement the aims of the Australian curriculum, and provide valuable assistance in classrooms and libraries. We take seriously our role in providing books that support our sense of national identity and knowledge, with content that is easily accessible and attractive to children.

Scholastic is a co-contributor to the resources in Australian schools via its Book Clubs and Book Fairs, and attributes a percentage of sales back to school libraries. Scholastic Australia also works with organisations such as Books in Homes to ensure that books reach the homes of children in socioeconomically disadvantaged regions. A reduction in our ability to publish locally would diminish our ability to pursue these activities, to the detriment of schools and other communities, both financially and in terms of quality educational resources.

Accessibility to books that reflect our own history, culture and aspirations is fundamental for Australia's future students, knowledge experts and innovators. Innovation—creativity built on knowledge—is a stated cornerstone policy of the current federal government. Removing one of the chief foundations of accessibility to our national heritage, stories and information, that could not and will not be published in other external territories, undermines our ability to innovate.

## Reduction of Term of Copyright

The recommendation of the Productivity Commission to redefine the term of copyright in Australia is not supported by Scholastic Australia.

Redefining the term of copyright for Australian creators to 15 years from first publication will drastically reduce income for publishers and creators from sales of books both here in Australia and overseas.

As the publisher of *Possum Magic* by Mem Fox and Julie Vivas, Scholastic Australia is in a unique position to highlight to the Commission how the income of creators would be directly affected if this redefinition was brought in. *Possum Magic* is a classic children's picture book that has been continuously in print in Australia for 33 years. Had copyright in their work expired 15 years from first publication the creators of this book would have missed out on significant income not only from sales of the original book, but also from spin-off titles published as a result of its long-term success. Spin-offs are an aspect of publishing that would be unavailable to publishers and creators should their investment in a book last only 15 years.

Moral rights would also be jeopardised by the diminished reproductive quality in out-of-copyright works, particularly for illustrated books. The original artwork used to create the work and the original press files would be in the hands of the originating creator and publisher, and any reproduction out of the term of copyright would only be copies of copies. With a shorter copyright term available, creators will presumably also lose control over spin-off and derivative works based on their original copyright (in terms of their moral rights) when their work goes into the public domain. Publishers do not publish for those books that have a life of only 5 years – it is the longevity of key titles in their backlist that enables them to continue to publish new titles. There is a term in publishing called 'long-tail publishing', and it is what all publishers aspire to—the continued income from a classic title that enables further publishing to take place.

In addition, reducing the term of copyright will make it impossible for Australian publishers to sub-license their books overseas (particularly in the key English language markets of the UK and USA/Canada). UK and US-based publishers will not sub-license a book for less than the full term of copyright (in both these territories defined as life of the creator plus 70 years). A licence for 15 years (or less, if the book is licensed post-publication) is not viable for them. At Scholastic Australia, we finalise more than 20 licences in these markets each year and in financial terms these licences bring in the most revenue for our creators.

Furthermore, a shorter copyright term would also affect the ability of industry partners to manage supply. Booksellers would no longer have clear supply chains and would need to build relationships and trust with new suppliers in the copyright-free market. Again, this would have a detrimental effect on current distributors and would most likely advantage international companies over Australian industry.

## **Introduction of a Fair Use Provision**

The recommendation of the Productivity Commission to introduce a fair use provision for reproduction of Australian copyright works is not supported by Scholastic Australia.

At Scholastic Australia we grant approximately 125 permissions each year bringing in revenue of around \$5,000 (shared, of course, with the copyright owners of the reproduced works). These permissions are non-exclusive licences granted for reproduction of our creators' copyright. Approximately 70 of these permissions are granted free-of-charge, but currently Scholastic Australia (in conjunction with the copyright owner) is the arbiter of what is a fair use of the copyright material (allowing, of course, for the exceptions that already exist in legislation). Fair use is not determined by the would-be user. What is a fair use can be difficult to discern, especially in relation to children's picture books, which, by their nature, are particularly vulnerable to exploitation. For example, an extract of 200 words can amount to 100% of the text of the complete work. No-one, except those with a vested interest in the usage, would agree that reproduction of an entire text is a fair use. In addition to granting individual licences for reproduction of copyright extracts, Scholastic Australia receives around \$600,000 in CAL income each year for reproduction of copyright by educational institutions. This income is shared with copyright owners where required. Should a fair use provision be legislated in Australia we know (based on the repercussions of changes in Canadian law in this respect) that CAL income will reduce between 20-30% - a significant loss of income by anyone's measure.

As publishers continue to invest in the knowledge economy, we need to do so certain that our investment will be protected for a period of time that allows for a fair return. Publishing is a low-margin industry and any erosion of that margin can only result in job losses and a lack of diversity in Australian publishing. Why would Australia want to follow New Zealand and Canada, whose publishing industries have both suffered severely as the result of similar changes in their copyright and trading laws?