

1 June 2016

Mr. Jonathan Coppel and Ms Karen Chester  
Commissioners  
Intellectual Property Arrangements  
Productivity Commission  
Locked Bag 2  
Collins St East  
MELBOURNE VIC 8003

Dear Commissioners,

Thank you for the opportunity to respond to the discussion draft on Intellectual Property Arrangements.

Considering Senator Fifield's recent reported comments that changing copyright "is not something the government has considered, proposed or intends to do", I will confine my response to the issue of Parallel Importation Restrictions (PIRs) of books.

From the first mention of the issue in the report, on page 19, the commission shows itself to be confused about not only the logical effect of changes to the current system, but what the current system actually is.

Australia's current system of PIRs is not, as the commission thinks, "the analogue equivalent of geoblocking". Actually, any Australian resident can personally import any edition of any book available worldwide, with low shipping costs, at any time, via websites like Amazon or Book Depository. These purchases by individuals are legal under PIR. I am incredulous that the commission considers that consumers can't and don't currently buy things from overseas websites, including books.

The current PIR perform three important functions.

First, PIR enable Australian authors to earn some money from our work. Australia did not invent the world-wide system of territorial copyright of books, but Australian authors must live within it. The contracts we sign apportion royalty basis on the basis of where books are sold: typically (and this is a generality) 10% of RRP for books sold in the territory governed by the contract, as compared with (again, roughly) extra-territorial sales based on a percentage of net receipts. In general terms, an export royalty is one-third of a domestic royalty. Without PIR, these export editions will be sold in Australia.

Secondly, they act as anti-dumping measures to prevent large numbers of "remaindered" books being dumped here at below home-market costs to drive Australian book retailers out of business. Australian book retailers are a national success story—through their innovation, energy and strategy, they have survived and thrived in the difficult retail

environment, of the last ten years and seen off challenges by huge global stores like Borders. They play a vital role in communities and do not deserve this.

Finally, PIR enable Australia, a small English-speaking market dwarfed by the UK and the USA, to retain a distinctly Australian culture in much the same way that local content rules do for television. It takes money and resources to invest in Australian writers. If Australian publishers find their locally-made editions are undercut by dumped international editions, they won't be able to make that investment. Fewer Australian authors will be signed; we will receive much less editorial, marketing and publicity support.

The commission's proposed PI changes are unilateral with respect to our largest rights-trading partners and, rather than being economically equivalent to removing tariffs, are analogous to applying tariffs to Australian writers working in an international market. There is no way that the USA, ostensibly the home of the free market, would ever countenance such an act of economic and cultural vandalism. It is not the PIRs that are an intervention in the global trade in book publishing rights, but their prospective removal.

In the report, the suggestion that Australians are paying more for books is supported by data dating from 2009, which is irrelevant in 2016. In fact the report contains no evidence that Australians pay more for books at all and further, contains no sensible projections as to the proposed savings as a percentage of the disposable income of the average Australian book buyer. A successful, innovative industry should not be disrupted without substantial evidence pointing to material and meaningful benefit for Australian consumers. My guess is that this evidence is not included in the report because it doesn't exist, and that actually the proposed PIR changes are driven entirely by ideology.

The "use it or lose it" rule means that books are available to Australian consumers quickly. Personal importation exemptions mean that any Australian consumer can buy any edition they want, at export prices with very cheap shipping. The Australian publishing industry is a vibrant and competition one, working within comparative rules as our trading partners, that employs some 4000 people and enables Australian writers to be net exporters of intellectual property. The report is a solution in search of a problem. It presents no substantial evidence or acceptable rationale for change.

Yours Sincerely

Toni Jordan