

3 June 2016

To Whom It May Concern,

I write in response to the Productivity Commission's Intellectual Property Arrangements Draft Report as both an Australian writer of 25 years standing and as a Senior Lecturer in Creative Writing at the University of Technology Sydney. The latter work, which I have also undertaken in for over two decades, involves not only teaching writers of the future, but also engaging in and supervising research in relation to both literature and the cultural economy. In addition, to having written three full-length creative works (the novels *The Service of Clouds* and *The Lost Thoughts of Soldiers* and the non-fiction *Sydney*), I have had a longstanding and high level of engagement with many sectors of the Australian writing economy that includes editing three national anthologies (including the negotiation of copyright), judging national and state literary awards, and acting as a board member of both literary festivals (Adelaide Writers' Week) and Varuna Writers' Centre in regional NSW.

I also have experience and understanding of the international writing economy through the publication of my own work internationally, through participation in international book fairs and festivals, and through other activities; in June this year, I was an invited participant in the Cátedra John Coetzee at the University of San Martín, Buenos Aires, participating with Professor Ivor Indyk from Western Sydney University and Professor Coetzee in teaching South American students about Australian literature and exploring links between the writing of Australia, South Africa, and Argentina.

Drawing on this knowledge and experience, I wish to reject this report's findings and recommendations for the Australian industry that:

- a) longevity of individual authorial copyright be reduced from 50 to 70 years after death to 15-25 years
- b) that Australia removes the Australian Parallel Import Restrictions (PIR) on books, and
- c) that Australia replace the legislative framework of "fair dealing" with a concept of "fair use", based on the American model.

I do so on the following grounds:—

1) That the report itself is a very poor work of research that fails to meet either Australian or international standards.

I wish to draw your attention to Dr Danielle Clode's excellent submission to this report among those already online. Rather than going into the same detail here in my own submission I would like to put it on record that I agree with and fully endorse Dr Clode's very thorough analysis of the report's failings, based on her discussion of what is expected in the context of an international research environment. These failings include: a lack of input from industry experts, a failure to use up-to-date data (along with a lack of evidence or modelling), and a

“horrificing” number of factual errors in regard to publishing and especially authorship at a level of practice.

2) That the recommendations will damage a successful industry for little or no gain.

The book industry in Australia employs more than 20,000 people and generates over \$2 billion a year income with no reliance on government subsidy. In addition, writers and Australian writers contribute to our communities (local, intellectual, international) in ways that are harder to quantify but no less vital. Having lived in Melbourne for ten years (now a UNESCO “city of literature”) I watched the enormous contribution of a creative economy to the revitalization of the city. Many countries—including China—are now recognizing the vital importance of “soft power” as a key player in international diplomacy. Having just travelled to Argentina, where Spain has long dominated the Spanish-language publishing economy, I was struck by how little diversity there was within that literature (especially in regard to Indigenous writing), contrasting vividly with a vital, diverse Australian literature that I was proud to represent.

It is frankly mind-boggling that against this context—and against the Government’s own public support of industry and “innovation”— that the Draft Report recommends moving to a model of parallel importation that would cause severe economic hardship to both publishers and authors (as evidenced by the devastating result for New Zealand, the only country to have so far removed territorial protections). It is also mindboggling that the Draft Report is recommending this on an entirely spontaneous and voluntary basis, against the united advice of those within the industry itself—all for a small potential reduction in the price of books. If the government were serious about reducing the price of books, it could easily revoke the 10% GST (through which the government earns the same price, or more, per book than authors themselves). As studies of the New Zealand experience have shown, even the promised reduction in price is not necessarily guaranteed to result; in some instances prices in New Zealand have gone up, while the price of Australian books has been going down, quite dramatically in some instances, as the industry tightens purse strings and the value of our dollar goes down. There is currently little difference between Australian and overseas book prices, especially if you factor in postal costs for the delivery of overseas items—while the report does not appear to have factored this latest data in, let alone what might happen if our dollar continues to slide.

I would like to also point out that the “fair use” and copyright limitation recommendations are also based on a fundamental misunderstanding of writing practice. Writing (both book- and short-length) has a far longer life in terms of its capacity to produce income (in CAL payments, sale of film rights, payment for reproduction in anthologies, etc.) than the report envisages; it is again stunningly misinformed in its assertion that there is a short window of economically productive life for a written creative work beyond when it first goes on sale. Like many other writers, I consider these early works as my “investments”, which continue to earn a small but significant part of my writing income. Yet the

report, by lumping so many creative product together, fails to make a strong case for the public good. While it may benefit society and the economy to make a technological innovation (a medicine, for example) publically accessible earlier, to that it can, for example, be reproduced and sold more cheaply, it is unclear from this report where the gain would outweigh the cost to Australia's cultural economy. Who would benefit from faster free access to an author's work: a multinational movie company using the story without payment, or an international publisher publishing iconic Australian works offshore and distributing them here (and not necessarily more cheaply)? Surely in this instance there is more benefit in keeping writers in work through the small longterm returns on their work, contributing to the greater good?

In conclusion, I would argue that the Draft Report's conclusions are ill-conceived and poorly thought out. The report lacks longterm vision by recommending radical changes that will virtually destroy our industry with little or no perceivable gain. I urge you to not reject its proposals.

Yours sincerely,

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