

*Submission to the Productivity Commission in Response to the Draft Report on Intellectual Property Arrangements (the Draft Report)*

I write in response to the Draft Report's recommendation that parallel importation of books be permitted (draft recommendation 5.2), and that a fair use exception be introduced into the *Copyright Act* (draft recommendation 5.3). I have read a number of the submissions that have already been lodged on these issues. I endorse these submissions and will not repeat their arguments here.

I am a writer of young adult fiction. My books are published in Australia, the US, the UK and in a number of other territories. By selling the rights to my books in these territories, I am able to support my young son and myself. I supplement my income by teaching writing classes and visiting schools.

From a personal perspective, if parallel importation were allowed it is unlikely that my Australian publishers would continue to purchase the rights to my books. The risk of overseas distributors dumping any remaindered copies here in the long term, would outweigh potential short-term profit. Without the Australian component of my income, I would not be able to continue to support myself as a writer. I would most likely have to take on full-time work. As the single parent of a young child, I would be unlikely to find much time to write. Meanwhile, any books that I did write would most likely be published by my American publishers. If they found their way to Australia at all, the Australian spelling, language and references would be altered or diluted. I would, in addition, be deprived of the invaluable benefit of a local editor, publisher, book designer, marketing team and publicist.

More generally, the Draft Report appears to misapprehend both the work involved in creating a book, and the value of a book itself.

The Draft Report implicitly regards writing as a hobby or creative outlet, and assumes that books are not written for payment. In fact, a novel is most often the result of extensive intellectual and imaginative effort, often comprising substantial research, planning and structural inventiveness. People might write occasional poetry for fun: people write books with the reasonable expectation that readers will pay for the pleasure of reading them.

In addition, the Draft Report appears to disregard the potential, indirect value of books to the Australian economy. Books with distinctive Australian settings and voices have an impact on Australian tourism and, more importantly, the manner in which Australia is perceived overseas; they can also have enormous benefits for mental health. I have met people who have told me they came to visit Australia because they read my books as teenagers; I have received letters from readers telling me that my books 'saved' them during times of great personal crisis or depression.

If my books have altered the perception of Australia, encouraged visitors to Australia, or helped readers in times of crisis, then I have no doubt that the books of other Australian authors have had the same effect and with much greater impact. (Countless people have told me that Melina Marchetta's books changed their lives: for the first time, they were able to recognise themselves in a work of fiction.)

It is peculiarly challenging to make money from books: books can be passed around, shared and re-used in a way that very few other products can be. While I believe that the fair dealing defences in the *Copyright Act* have been too narrowly construed by courts, any changes to these defences should have the objective of stimulating creative endeavour, rather than depriving authors of potential income. The 'fair use' exception recommended here is too broad, and would have too great an impact on the already precarious income of authors and publishers. Care needs to be taken

to ensure that authors are not required to 'give away' their work: while I see the general appeal of allowing schools free access to books, there is also appeal in requiring furniture makers to provide free desks and carpets to schools, tech companies to supply free computers, and so on. It is important that copyright works not be precluded from the same protection given to other property because of a lack of imaginative capacity to perceive the works as property.

The publishing industry in Australia is a passionate, hard-working community whose contribution to this country is incalculable. In recent years, the industry has been battered by the increase in electronic entertainment and subsequent decline in reading. It would be a very strange thing to batter it even further, risking undermining the industry itself, in exchange for the remote possibility that some books might be a little cheaper, and because certain major retailers see the potential for making a little extra profit from this 'product'.