

## **Submission to the Productivity Commission**

### **Re: April 2016 draft report on Intellectual Property Arrangements**

As the peak body for writers in New South Wales, the NSW Writers' Centre welcomes the opportunity to provide feedback on the Productivity Commission's draft report on Intellectual Property Arrangements.

The NSW Writers' Centre is a not-for-profit, member-based organisation that supports and represents the writers of this state. One of our key aims is to help writers build sustainable careers, particularly through meeting the challenges and taking advantage of the opportunities created by the rapid transformation of the writing and publishing sector.

The changes recommended by the Productivity Commission would make this aim considerably more difficult to achieve.

Removal of parallel import restrictions and a shift to a "fair use" copyright regime would undermine authors' ability to earn income from their work as well as attacking the viability of the publishing and bookselling industries more broadly. Consumers would ultimately be the losers as, although some books might be dumped on the market at cheaper prices, the devastation of the sector would almost certainly lead to fewer Australian books being published overall.

The recommendations are addressed in more detail below.

#### *Parallel import restrictions*

Parallel import restrictions (PIRs) are an integral part of the international system of territorial copyright.

Among other things, territorial copyright protects authors from having overseas editions of their books, for which lower royalties are paid, dumped in their home market.

The principle of territorial copyright is adhered to in the other major English-language book markets, the UK and the US, meaning Australian authors would be at a considerable disadvantage on the global stage if they alone did not enjoy this protection.

Removal of PIRs would also discourage Australian publishers from selling international rights as, by doing so, they would be exposing their local editions to competition from lower-royalty overseas editions. This would reduce the ability

of Australian writers to build international audiences and the capacity for Australian stories to be told on the world stage.

Although one of the stated aims of the recommendation to remove PIRs is to reduce the cost of books by allowing booksellers to source cheaper editions from overseas, the Australian Booksellers Association is adamantly opposed to the move, saying it is “absolutely committed to the importance of Australian territorial copyright – in providing value, range and quality to Australian readers”.

*“Fair use”*

The Productivity Commission is arguing for a watering down of copyright protections through a shift from the current “fair dealing” system to one based on “fair use”. This would make it easier for corporations and others to use authors’ creative works for their own commercial or other purposes without permission from or payment to the original creator.

This would inevitably reduce authors’ ability to earn income from their work, and would almost certainly increase litigation related to intellectual property, imposing additional legal costs on those creators who sought to challenge unauthorised use of their work.

When a similar change to copyright provisions was implemented in Canada, authors lost an estimated \$30 million in income, partly as a result of corporations and others no longer paying licensing fees for use of copyright material. The Canadian publishing industry has also suffered, particularly in the educational publishing sector where many companies have reduced their output or withdrawn from the market entirely.

*An industry worth fighting for*

The Australian book industry publishes more than 7000 titles each year, generating \$2 billion in revenue and employing 20,000 people. The engine room of the industry is copyright, the mechanism by which authors (and, by extension, everybody else) gets paid.

Writers, like anybody else who brings a product to market, are entitled to receive payment from those who choose to consume their work. Under the current regime, even best-selling authors struggle to make anything like average weekly earnings. The watering down of intellectual property provisions recommended by the Productivity Commission would make an already challenging financial situation far worse.

If we want to keep telling Australian stories, to ourselves and to the world, we need to ensure it is possible for successful Australian writers to make a living from what they do. For that to continue to be the case, it is essential that parallel import restrictions and “fair dealing” copyright provisions be maintained.

The NSW Writers’ Centre urges the Productivity Commission to amend its recommendations accordingly.

Jane McCredie  
Executive Director, NSW Writers’ Centre

3 June 2016