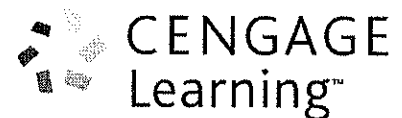


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9<sup>th</sup> Jan 2009

TO: Productivity Commission  
RE: Parallel Importation of Books Study

Cengage Learning Australia Pty Ltd (CLA) has a long history in publishing local textbooks, and student & teacher resource materials in Australia. CLA specific serves the Education market, with strong annual frontlist publishing each for the primary, secondary and tertiary market segments.

We directly employ over 200 fulltime staff, generate annual revenues in the \$50m to \$100m, range and have over 1,000 current independent authors and illustrators to which we periodically pay royalties to.

CLA is a member of the Australian Publishers Association and fully supports the stance of the APA in seeking to maintain the status quo for copyright restrictions on the parallel importation of books.

That stated, CLA wishes to make a separate public submission to the Productivity Commission and provide comment and supporting data focussing specifically on the Australian education publishing industry rather than the consumer book trade market. We are concerned that the push for an open market to import and the debate is too narrowly focused on the writing, publishing and bookselling of Trade books with too little thought on the impact on the Australian education publishing industry – a subset of the Australian book industry.

CLA wishes to make six separate contentions:

In our experience, and having regard to how we view the changing nature of educational materials and delivery mechanisms, any relaxation or removal of the parallel import restrictions will:-

- a. ***Transfer profits and therefore ongoing investment away from Australian education publishing to overseas.*** A negative impact of some significance for our tertiary education business by placing at risk the number of Australian education titles published, and the level of important support materials that are made available. There is substantial time and investment (staff & marketing costs) to maintain ongoing contacts with teachers and lecturers necessary to secure continuation of school and tertiary textbook adoptions. Across primary / secondary / tertiary, over 70% of our entire business is completely local publishing by Cengage Learning Australia. Thus the impact (whilst difficult to quantify) can only logically be negative to the overall education outcome for students studying at tertiary institutions, lead to a reduction in overall royalties flowing to local authors, and at best constrain, or at worst reduce, the level of publishing & sales employment positions CLA maintains in Australia.
- b. ***Reduce the extra non-textbook resources that add to study enjoyment and improve academic results.*** The current debate appears centred almost exclusively on the printed book. For

education publishers whilst the book is core, it is far from the only publishing we provide to our customers as a combined package of resources for a specific purpose. We risk losing a great deal of the enrichment of total resources offered in both our tertiary and secondary school publishing business units. Yes, the printed textbook currently generates the revenue and core publishing profit. But for both these sectors, CLA (as do our local peers) provide considerably more to win and maintain adoptions – teacher materials, lesson plans, dedicated website of extra material for each textbook, interactive learning objects, downloadable templates, up-to-date weblinks for further research, and similar. Purchasing the textbook is the key transaction, but it is not, by a long way, the full experience and range of material provided to the student (*to learn*) and the teacher/lecturer (*to teach*). There is no incentive for importers of just the textbook separately to develop, maintain and promote all the important ancillary resources and learning aids a local publisher offers and willingly invests in.

For the education market there is a huge investment in local authors and development of local intellectual property across a variety of media platforms. We believe the Federal government's "education revolution" implicitly assumes a continuation of the rich and varied local content being available to students from primary through to tertiary. Removal of parallel import restrictions can only negatively impact this however unwitting a consequence it might be.

- c. ***Dumb down our position in pedagogical leadership particularly in primary literacy.*** We see a real risk of erosion of our Australian culture and an acceleration of subservience to overseas sociological, linguistic and moral norms that applies quite prescriptively for primary and secondary school education delivery in other countries (and in the main – the USA). Most commentators tend to focus on the obvious linguistic examples such as "Mom" and "color" instead of "Mum" and "colour". This occurs, but they probably don't represent the main cultural concern – certainly not for CLA and nor, I suggest, for the primary education publishing industry in Australia.

Australia has a strong multicultural history with high understanding and acceptance of world cultures. It may not be that obvious in the volumes of pedagogically based levelled literacy readers that are used in schools throughout a child's primary school years, but any reduction in Australian authorship and publishing of primary education readers in favour of imported (mainly US created and low cost Asian country exported) can only alter this balance to our country's disadvantage. Some examples, provided at appendix B may illustrate this contention better.

- d. ***Provide unintentional impetus to increase imports of US higher education titles from foreign suppliers (not being the originating US publisher).*** Many US titles are sold either as finished stock or rights to many countries at prices that reflect the relatively low cost of living and overall capacity to pay of the students in those specific territories, not to support a re-export operation where the business model doesn't have to pay royalties (or at a substantially reduced amount) to copyright owners, nor has to provide the ancillary support materials that are created around the core textbooks.

Over the last 20 years the Cengage Australia publishing operation has consistently grown and expanded, mostly organically rather than by acquisition. The clear hallmarks have been a commitment to local publishing, close customer relationships, and a long term commitment to providing a local context for educational resources for students and teachers/lecturers.

- e. ***Unlikely have any price advantage effect and certainly not the same to all customers.*** The argument that the existing restrictions on parallel importation keeps prices higher to the

detriment of the book customer is shallow and simplistic when viewed for the education publishing market. As a general benchmark statement – trade books seek to *entertain first*, are largely discretionary and open to gift & impulse purchase, and nearly all sales are to the end consumer who pays GST and receives no tax deduction offset or subsidy.

For the education publishing market – the books are to *educate first*, are strongly mandated (secondary) to be purchased or at least highly expected to be purchased (tertiary), and the customer is much more complex. Nearly all primary school book sales are to Schools (which recover 100% of the GST price component) or by teachers for their own reference (fully tax deductible to them personally). Secondary school books are purchased by schools (no GST ultimately paid) or by parents of students (education rebate available to many under their personal tax return lodgement). Tertiary textbooks are mainly purchased by students, some who may obtain a tax rebate under self-education expenses and in any event have an excellent opportunity (and do) frequently sell second-hand one year later.

So there can be no automatic assumption that lower prices, even if capable as a consequence to removing the restrictions on parallel importation, will give a similar advantage to all customers within the education publishing market

- f. ***Threaten our vibrant primary literacy publishing industry.*** Australian education publishers (comprising small locally owned and subsidiaries of multi-nationals) have a long history of very successful development and export of literacy content worldwide. Australian literacy development is superbly represented across North America, Asia and Europe and translated into many other languages. The pedagogy is extremely well respected and the design is purposely relevant for all countries. This is a purposeful reflection that US and UK publishers have sufficiently large local markets to develop stories and use pictures and illustrations that strongly reflect their specific culture. Australian literacy publishers develop with a worldwide selling canvass in mind which means we understand the cultural nuances, idioms and correct ethnic depictions in illustrations and photography.

The industry is very concerned that we be “held hostage to our success” with Australian developed content rights sold widely across the world be reprinted cheaply and sold back into Australia at a lower cost purely because of the lack of development and author fees that were incurred by the original Australian publisher which needs to be recouped over time in the selling price

We note from the Productivity Commission Issues Paper that up-to-date information on the various subsets of the Australian Book Industry is welcomed to better understand the industry, how it operates and how various decisions may impact. At appendix A we have provided a brief summary of the size of the three education market segments – primary / secondary / tertiary together with some dot points on how each currently operate. The basis of the estimates and the broad assumptions used are provided for each segment.

Conclusion:


We believe the current debate leading to the review by the Productivity Commission has been substantially centred on trade publishing and the desire of retail booksellers to improve their margins. The concern for CLA is that education books may get caught up in unintended (perhaps unappreciated) consequences for decisions taken that disturb the current status quo in relation to territorial copyright.

Hopefully this submission assists the Commission to have a better and balanced understanding of the education book publishing industry within the overall Australian book publishing industry.

Yours sincerely  
Cengage Learning Australia

A handwritten signature in black ink, appearing to read 'David O'Brien'.

David O'Brien  
General Manager – Schools

A handwritten signature in black ink, appearing to read 'Paul Petrus'.

Paul Petrus  
General Manager – Higher Education

## Appendix A

### Background to the Education market in Australia – key dynamics:

The below information is provided by Cengage Learning Australia which operates in each of the three market segments in Australia and reflect the personal views and understanding of the writer

#### PRIMARY

- The Primary published books market is estimated at \$A120m per annum retail spend. This calculation takes the reported sales value (for 2007 calendar year) of APA members who chose to contribute their sales data to the APA for aggregation, uplifts this by an estimated factor to allow for sales by non APA members; adds an estimated amount for library sales into primary schools that are specifically excluded from the APA figures. It is Cengage's estimation that the combined publisher book sales estimates to around \$95m pa. Add an amount for estimated bookseller margin and we have a view that around \$120m is spent each year by the end purchaser of published books in the Primary school market space
- Around 60% of the entire money spent on books in this sector is for literacy series, which are very carefully crafted for reading level, word counts, phonemic awareness, general industry agreed high frequency words, repetition and progression, comprehension, and carefully structured pedagogical development for reading / writing / speaking / listening
- Around 20% of the spend is on consumable (the student writes in the book) textbooks covering Maths, Handwriting and Spelling
- The remainder of money spent on books in Primary is on teacher reference materials including blackline masters, and classroom reference material (dictionaries, Atlases etc)
- The majority of literacy series book sales are sourced from the sales forces of the local publishers. Consumables tend to be purchased from specialist education booksellers, though the adoption in the schools is often secured by the publisher sales force
- Each State & Territory of Australia has developed and follow their own State based curricula. This is particularly manifest for Maths and Handwriting, and separate books must be developed for each of the States
- There are 8 multi-national and a further 20+ primary school education book publishers of varying sizes operating within the estimated \$120m pa primary school market segment, of which only around \$95m in total is addressable to them under the existing way the market operates
- Primary literacy publishing industry has a long history of successful export of Australian developed content throughout the world by separate versioning to suit local conditions overseas or by licencing for other languages and co-editions
- The majority of content is contracted to Australian external authors for a royalty based on net sales
- Publishers in the Primary market segment travel to each school and visit teachers at their worksite to secure book adoptions and sales orders. Only a relative fraction of the total sales turnover is undertaken from retail sites of the booksellers, and nothing from the offices of publishers

#### SECONDARY

- The Secondary published books market is estimated at \$A160m per annum. This calculation takes the reported sales value (for 2007 calendar year) of APA members who chose to contribute their sales data to the APA for aggregation, uplifts this by an estimated factor to allow for sales by non APA members; adds an estimated amount for library sales into secondary schools that are specifically excluded from the APA figures. It is Cengage's estimation that the combined publisher book sales estimates to around \$115m pa. Add an amount for estimated bookseller margin and we have a view that around \$160m is spent each year by the end purchaser of published books in the Secondary school market space
- The significant majority of all secondary school textbook sales are purchased from specialist education booksellers, though the adoption in the schools is mostly secured by the publisher sales forces. Only a very small part of the market spend is from general "high street" booksellers
- Each State & Territory of Australia has developed and follow their own State based curricula. Separate textbooks are commonly developed by specialist education publishers for 5 key States and for each syllabus subject and each year level within each State
- There remains diverse starting ages for school children across the States , - there are 5 years of secondary schooling in Qld and WA and 6 years in the remaining States. Indeed from 2009 WA will become a hybrid State with Catholic Schools commencing secondary school from year 7 whilst the government and other schools commencing from year 8
- In Victoria the distribution of secondary school textbooks is almost wholly by student (parent) purchase from a school directed booklist for subjects undertaken by each student. This is also common practice across private & independent schools in States outside of Victoria. In government schools across the rest of Australia (ie excluding Vic), secondary school textbooks are mostly purchased by schools direct from booksellers and are then provided to students for their year of study (either free or by an annual hire charge levied to the parents). In these instances the books are purchased once and used for many years by a number of students
- Where books are purchased directly by each student, there is a corresponding strong second-hand market which erodes sales to publishers
- There are 8 multi-national and a further 20+ secondary school education book publishers of varying sizes operating within the estimated \$160m pa secondary school market segment, of which only around \$115m in total is addressable to them under the existing way the market operates
- The majority of content is contracted to Australian external authors for a royalty based on net sales
- For the Secondary school segment, publishers and booksellers provide a raft of add on services to the customers – schools, teachers and students. Widespread examples by publishers include extra teacher lesson plans and classroom activities provided for free download from websites; professional development workshops (free or modest cost recovery only) to explain how to use classroom resources effectively; mostly offer free delivery to schools; displays provided to teachers at their schools to review products available; strong membership subscription to virtually all teacher associations for each subject and in each State, without which many of the associations support work would be constrained
- Widespread examples by specialist education booksellers include providing volume rebates for business to schools; organising second-hand school book sales for students to reduce the overall cost burden for parents; undertaking pre-pack of all required books per student; plastic covering of books for greater durability
- Publishers in the Secondary market segment travel to each school and visit teachers at their worksite to secure book adoptions and sales orders

## TERTIARY (HIGHER EDUCATION)

- The Tertiary published books market is estimated at \$A160m per annum. This calculation takes the reported sales value (for 2007 calendar year) of APA members who chose to contribute their sales data to the APA for aggregation, and uplifts this by an estimated factor to allow for sales by non APA members. It is Cengage's estimation that the combined publisher book sales estimates to around \$120m pa. Add an amount for estimated bookseller margin and we have a view that around \$160m is spent each year by the end purchaser of published books in the Tertiary school market space
- The significant majority of all tertiary school textbooks sales are purchased from campus booksellers and specialist tertiary booksellers. The adoption in each tertiary institution is solely secured by the publisher sales forces. Only a small part of the market spend is from general "high street" booksellers
- Tertiary books are nearly always purchased directly by each student, from the campus bookseller for convenience but increasingly from the internet. There is also a strong second-hand market which erodes sales to publishers.
- There are 5 multi-national tertiary education book publishers which each cover a wide array of subjects and across nearly all institutional courses offered in Australia. In addition there are a number of other publishers, both large and small in size, which specialise in one or a few specific courses. Combined, all these publishers operate within the estimated \$160m pa tertiary market segment, of which only around \$120m in total is addressable to them under the existing way the market operates
- In terms of portfolio it is estimated that around 50% are locally originated titles and/or local adaptations of overseas edition with the other 50% being imported textbooks, principally from the USA, UK and Asia.
- The creation of local product is designed to meet the needs of culturally specific course requirements particularly in the areas where cultural background is important for the student experience and learning. Subjects such as education, psychology, law and business are areas where having correct culturally specific examples and context enriches learning.
- The majority of local book content is contracted to Australian external authors for a royalty based on net sales.
- Publishers provide academics with a wealth of resources and services designed to assist in the teaching and learning of students. These range from the sourcing and creation of on line content and platforms to extend learning opportunities as well as assisting assessment. Local publishing provides a package of learning including instructors teaching manuals, solutions, cases analysis, powerpoint presentation managers and the like. These resources are locally produced and specific for the products we publish and also provide writing experience for new authors.
- The skills in developing Publishing programs, marketing, production and sales of local content take years to build and employ significant staff within a publishing group. This skill set cannot be quickly duplicated or increased in scale.
- Cengage employs in house designers, local publishers; marketing, technical and sales staff to support the creation of local product. In addition multiple free lancers are employed to handle the bigger projects as they come on stream.
- The University sector is competitive and individual institutions are working hard to differentiate their courses to gain competitive advantage. A diverse offering of content produced for local conditions provides diversity of content to fulfil that need.

- Many VET courses require local content to meet the needs of local safety and operational standards in building, plumbing and electrical standards.
- Many US books are strongly culturally specific using US language / spelling and contextual examples which do not reflect the Australian culture and environment.
- Pricing of local products also indicates a highly competitive environment compared to pricing in the US and Canada for similar products. See appendix C attached.
- For the tertiary segment, an emerging trend is to provide custom publishing options whereby specific content is sourced across a variety of standalone textbooks and customised for the course content of a specific tertiary institution and provided in either print or digital or both formats. This involves author royalty and digital rights clearances to be managed by the publisher.
- Publishers in the tertiary market segment travel to each tertiary institution and visit lecturers and course administrators at their worksite to secure book adoptions. Campus booksellers will then order annually a quantum of books having regard to the course enrolment at their institution less second-hand and internet based unit sales estimated.



## Appendix B

### Some examples of the prescriptive nature of primary school education publishing for the US market that does not apply to the Australian market.

**Purpose:** To highlight some of the type of differences that pedagogically based materials (not being trade books) need to be authored & illustrated for the USA market *that do not apply* to the Australian market. [No inference or comment is made or should be construed on the relative merits of how materials are provided and used in each of the countries]

The contention is simply that any action by the Government that encourages (meaningfully or unintentionally) the importation of cheaper US developed primary education materials that had been sold via rights into lower cost jurisdictions may lead to an unintentional and quite subtle shift in how and what Australian school children learn in their formative years.

Content and picture/illustration depiction – Australian market suitable	Content and picture/illustration depiction – US market requirement	Rationale
Where does milk come from? Illustrated reader with line drawing of “Daisy the cow”. Depiction of an udder is fine	Depiction of udder would be removed	Primary schoolchildren are not to be exposed to any images or suggestions of genitalia – either photo or illustration
A non-fiction reader on the jobs involved in building dams (such as the Hoover Dam)	Best to remove the word “Dam” from book title	Whilst ok in many US States, some States would deem the pronunciation of the word is too close to a blasphemy – “damn”
A story that involves / explains the purported sightings or mysteries involving UFOs	Would not be released into the education market for school use	Content maybe seem by some States as being at odds with the State view of God as creator
Non-fiction book on Ancient Egypt – with line drawing of an Egyptian worker in a loin cloth. Use of two dots on chest to denote no upper clothing worn	Digitally add a top to the man – now wears a toga type garment (Historically inaccurate)	Image of nipples in a line drawing is not deemed appropriate
Non-fiction book dealing with maps and basic Geography for oceans which includes the position and labelling of the Southern Ocean	Southern Ocean label would be removed for any readers levelled for classroom use by students up to US grade 4	US primary literacy is very prescriptive and introduction of Southern Ocean is not taught until grade 5

## Appendix C

### Price comparison of the top 10 textbooks sold by Cengage Australia in Australia that are imports from Cengage USA

Author	Title	AUD RRP (incl GST)	USD (Amazon)	Exchange rate	AUD converted	Var \$	Var %
Barlow/Durand	Abnormal Psychology: An Integrative Approach, 5e	\$ 119.95	\$ 111.40	\$ 0.70	\$ 159.14	(\$39.19)	(25%)
Egan	The Skilled Helper, 8e	\$ 97.95	\$ 90.18	\$ 0.70	\$ 128.83	(\$30.88)	(24%)
Gravetter	Statistics for the Behavioural Sciences, 7e	\$ 124.95	\$ 122.37	\$ 0.70	\$ 174.81	(\$49.86)	(29%)
Howell	Statistical Methods for Psychology, 6e	\$ 119.95	\$ 132.76	\$ 0.70	\$ 189.66	(\$69.71)	(37%)
McMurry	Organic Chemistry, 7e	\$ 129.95	\$ 162.77	\$ 0.70	\$ 232.53	(\$102.58)	(44%)
Schwalbe	Information Technology Project Management, 5e	\$ 94.95	\$ 79.15	\$ 0.70	\$ 113.07	(\$18.12)	(16%)
Shelly/Cashman	Discovering computers 2008: Complete	\$ 99.95	\$ 93.95	\$ 0.70	\$ 134.21	(\$34.26)	(26%)
Sherwood	Human Physiology: From Cells to Systems, 6e	\$ 124.95	\$ 148.57	\$ 0.70	\$ 212.24	(\$87.29)	(41%)
Stewart	Calculus, 6e	\$ 129.95	\$ 154.79	\$ 0.70	\$ 221.13	(\$91.18)	(41%)
Weiten	Psychology: Themes and Variations, 7e	\$ 109.95	\$ 150.87	\$ 0.70	\$ 215.53	(\$105.58)	(49%)

NOTE: Most of the textbooks sold by Cengage tend to attract around 10% discount to Australian booksellers off RRP. Imported textbook costs do not include freight. Local booksellers receive return rights from local distributors such as Cengage

Contention is that the relative cost of a US higher Education textbook will vary enormously with the vagaries of the exchange rate. Currently it is in the favour of the local publisher, last June it very clearly wasn't