
Productivity Commission's Study into Copyright Restrictions on the Parallel Importation of Books

Victorian Government Submission

January 2009

Introduction

The Victorian Government welcomes the opportunity to contribute to the Productivity Commission's study into Copyright Restrictions on the Parallel Importation of Books. A summary of the submission's key points is in Box 1.

Box 1: Key points

- The Victorian Government supports the current regulatory framework that is relatively light handed and has resulted in high levels of service and choice for consumers and a diverse and competitive book sector.
- The current policy settings have resulted in:
 - good outcomes for consumers;
 - a healthy and diverse publishing industry;
 - a high level of choice and competition in the book retail market;
 - significant numbers of jobs in printing in regional Victoria; and
 - a vibrant literary arts sector.
- The Victorian Government considers that if the Commission is to recommend a significant reform of the current policy settings, it needs to be supported by strong evidence that the potential cost savings reform outweigh the benefits currently accruing to consumers, and the printing and publishing industry.
- Given the benefits of the current policy settings, the Victorian Government does not believe that a wholesale removal of parallel import restrictions is warranted. However, the Commission could consider targeted reforms in specific areas of the book market where the benefits of current restrictions are lower or the costs higher.
- Targeted reforms may potentially improve the efficiency and effectiveness of current arrangements while maintaining the benefits of the current relatively light-handed regulatory approach to the industry, consumers and the literary arts and cultural sector.

The Victorian Government emphasises the importance of books and writing to Victoria's cultural environment, the current diversity of choice for consumers (both in terms of titles and retail outlets), the strength and diversity of Victoria's book publishing and selling sectors, and the presence of a significant book printing industry in regional Victoria.

The Victorian Government supports the broad approach to the inquiry proposed in the issues paper. In particular we support, the Commission's proposal to:

- consider the benefits and costs to all affected parties, both in the book sector and the community more broadly; and
- apply a broad interpretation of 'benefits' and 'costs', including social and cultural impacts.

The Victorian Government supports the Commission undertaking an analysis that is evidence based and that provides a robust analysis of the implications of reform

options for: book prices; consumers; Australian authors; the production of Australian cultural content; and the book selling, publishing and printing industries.

Benefits of the Current Policy Environment

Victoria is a vibrant arena for the creation of literary works. Its writers are supported by a robust publishing environment, including a large number of independent and small publishers, and by the public's broad participation in literature – as readers, writers and audiences at events and festivals.

Victoria's book industry is healthy, features multinational publishers, as well as notable independent book publishers, and is enriched by high-quality small presses and smaller independent publishers of books, journals and magazines.

Melbourne's literary heritage and culture have been internationally recognised, with the city's designation as the world's second United Nations Educational, Scientific and Cultural Organization (UNESCO) City of Literature. This is a permanent designation recognising Melbourne's literary strengths across diverse criteria.

Consumers in Victoria are well served by a large and diverse book selling sector, with independent booksellers enjoying a larger market share than elsewhere.¹

At the time of writing, 59 submissions to the study have been published on the Commission's website. The Victorian Government notes that the large majority of these submissions argue for the retention of the current restrictions on parallel importation, indicating a significant amount of support for the current policy environment.

The Victorian Government believes that the introduction of the 30 and 90 day rules in 1991 represented an appropriate and relatively light-handed approach to the regulation of the book sector. The 1991 reforms allowed for the parallel importation of books under certain circumstances, increasing the timeliness and availability of books in the Australian market, while providing adequate protection for territorial copyright. The current policy settings have resulted in:

- a healthy and diverse publishing industry, including many independent publishers;
- a high level of choice and competition in the book retail market resulting in good outcomes for consumers; and
- a vibrant literary arts sector supporting and providing opportunities for emerging and established Australian authors.

The Victorian Government considers the current regulatory approach to be light handed because it:

- allows parallel imports under certain circumstances;
- allows booksellers to directly import single copies of books to fill customer orders;
- allows the direct importation of books by consumers;
- does not require that books be printed in Australia; and
- creates a market-based mechanism for the support of Australian authors.

These outcomes have been achieved with minimal direct support from Government for the sector.

¹ Victorian Government, Melbourne UNESCO City of Literature Submission, p.98, www.arts.vic.gov.au.

Victorian Context and Implications of Further Deregulation

The Victorian Government's objectives are to maintain a thriving local book sector, a high level of choice and competition in the book retail market, and good outcomes for consumers. The current policy settings have contributed to these objectives as well as to the development of Melbourne as a literary hub and subsequently to its designation as a UNESCO City of Literature. The Victorian Government is concerned about the impact that a removal of parallel importation restrictions may have on Victoria's position as a leader in this area, should this lead to a less vibrant local industry and cultural base.

Melbourne as a City of Literature

In 2007, the Victorian Government announced its City of Literature initiative to capitalise and build upon its existing support for literature. The initiative aims to recognise and promote Melbourne as a literary capital in the region, expanding the profile of writing and writers, and developing an 'umbrella' brand for all literary activity in the State.

The initiative comprised four strategies:

1. developing and expanding Melbourne's festivals for books and ideas;
2. developing and expanding the Victorian Premier's Literary Awards;
3. establishing a Centre for Books (Writing) and Ideas; and
4. achieving UNESCO City of Literature status for Melbourne.

With increased Government support since 2007:

- the Melbourne Writer's Festival has attracted record audiences, raised its international profile through partnership events and broadened its audience with new dedicated children's programs;
- support for the Victorian Premier's Literary Awards remains among the highest commitments to literary awards by any Government in Australia, with a new award for best music-theatre script in 2008 and a further review underway to broaden the Awards;
- work is currently underway on the Centre for Books Writing and Ideas which will be housed in the State Library of Victoria building, providing a space for writers, office accommodation for key literary organisations (including Victorian Writers Centre, Melbourne Writers Festival, Emerging Writers Festival, Express Media, the Australian Poetry Centre), and a public presentation space for literary activity; and
- Melbourne was designated a City of Literature by UNESCO in August 2008, only the second since Edinburgh was designated in 2004.

The City of Literature designation was based on Melbourne's broad range of excellent cultural institutions and facilities, a thriving independent publishing sector, extensive community engagement with a broad range of literature, as well as Government's support for literature, including additional support through the initiative.

In particular, Melbourne is home to almost one-third of all Australia's Authors, and Book and Script Editors², contains a large independent publishing sector, enjoys the largest number of small presses and independent publishers of books, journals and magazines in Australia, and has more bookshops per capita than any other

² Australian Bureau of Statistics, 2006 Census, Occupation 06 (ANZSCO) (OCC06P) 4 Digit Classification - Authors, and Book and Script Editors.

Australian city with particular strengths in independent, specialist and second-hand books.

A detailed Victorian Government submission was presented to UNESCO in support of Melbourne's bid for City of Literature Status. The Commission may wish to refer to this document which is available on the Arts Victoria website (www.arts.vic.gov.au).

Victorian Government Financial Support for Books and Literature

In addition to the initiatives outlined above which focus on marketing and developing Melbourne as a literary capital in the region, the Victorian Government provides some direct financial support to the book sector in the form of grants to writers and publishers and ongoing support for the Premier's Literary Awards and the Melbourne Writers Festival.

The issues paper highlights the difficulties involved in gaining a comprehensive and up-to-date picture of the size and make-up of the book sector and identifies 'governments' as one of the key parties involved in the sector along with authors, publishers, printers and retailers.

In the interest of assisting the Commission in its analysis, Table 1 provides a snapshot of current Victorian Government financial support for books and literature.

Total support for books and literature through Arts Victoria in 2008-09 is expected to be \$46.5 million, however most of this support is dedicated to the State Library of Victoria.

Table 1: Victorian Government Funding for Books and Literature

	2006-07 Actual	2007-08 Actual	2008-09 Budgeted
State Library of Victoria			
Operating	\$34,092,000	\$35,058,000	\$34,474,000
Cap ex	\$11,443,000	\$1,118,000	\$10,816,000
Melbourne Writers' Festival	\$268,000	\$253,450	\$256,979
Victorian Writers' Centre	\$125,000	\$127,875	\$130,816
Premier's Literary Awards	\$250,000	\$276,500	\$298,000
Express Media	\$125,000	\$127,875	\$130,816
Individual writers' grants	\$62,000	\$140,000	\$59,300*
Writing/publishing organisations	\$262,000	\$166,880	\$313,685*
Total	\$46,627,000	\$37,268,580	\$46,479,596

Items with an asterisk * represent funding allocated to date.

Table 1 also demonstrates that Victoria's position as a City of Literature has been achieved with a relatively small level of direct support from the Victorian Government.

Book Printing³

Although there are around 200 book printers in Australia, generating \$250 million in revenue and employing 2,000 people, the book printing market is dominated by two companies: McPherson's Printing Group (MPG) (based in Maryborough, Victoria) and Griffin Press (based in South Australia). These two companies have combined revenues of approximately \$115 million. The other significant printer in the market, Ligare, is based in New South Wales and specialises in digital book printing services. MPG provides a significant source of employment in a relatively disadvantaged region (see Box 2).

According to the Australian Competition and Consumer Commission, offshore printing competes directly with domestic printing and offshore mono printing may be slightly cheaper than domestic mono printing. However, Australian book printers are more competitive in time sensitive markets and Griffin Press and MPG are considered to be the only two printers in the market competitive for longer print runs (around 5,000 and above) of mono books in standard formats.⁴

Box 2: The Maryborough region and McPherson's Printing Group (MPG)

- A 2005 Monash University socio-economic policy report classified Maryborough as "population-stagnant/employment disadvantaged".
- Unemployment in Maryborough is above the State average at around 10 per cent, and youth unemployment is just under 18 per cent.
- MPG is one of the largest employers in Maryborough with around 300 employees.
- MPG operates two commercial printing facilities in Victoria - Mulgrave (non-publications) in metropolitan Melbourne and Maryborough (publications including books) in regional Victoria.
- MPG produces both mono and colour books, including trade, educational and professional reference books in a variety of formats.
- Trade books reportedly make up to almost 50 per cent of the production at MPG's Maryborough plant.
- MPG also prints loose leaf publications, directories, activity books and race books.
- In 2005, demonstrating a long-term commitment to its Maryborough facility, MPG underwent a \$25 million upgrade of its printing equipment, installing new high-speed binding equipment and a new five-colour sheet-fed press.
- The Victorian Government provided a \$50,000 grant to MPG in December 2008 for the installation of digital printing equipment and the training of staff at the plant. At the time of the announcement, the company made a commitment to invest a further \$1 million in the Maryborough site.

Shipping costs, the ability of Australian printers to deliver books more quickly than international printers and the ability to cost effectively produce smaller, more frequent print runs are all incentives for publishers to print books in Australia. These factors would not be impacted by changes to parallel import restrictions.

³ IBISWorld Company Premium Report, McPherson's Limited, 30 June 2008, IBISWorld Industry Report, Printing in Australia, Book and Magazine Wholesaling in Australia: F4794, April 2008
IBISWorld Industry Report, Printing in Australia: C2412, September 2008, IBISWorld Industry Report, Printing in Australia, Newspaper, Book and Stationery Retailing in Australia: G5243, October 2008, IBISWorld Industry Report, Printing in Australia, Book and Telephone Directory Publishing in Australia: C2423, September 2008.

⁴ ACCC, Public Competition Assessment, PMP Limited and McPherson's Limited book printing business – proposed joint venture, 27 August 2007.

While the current policy settings do not require that books be printed in Australia, the timing constraints imposed by the 30-day rule create an additional incentive for some books to be printed locally rather than overseas.

Implications of Further Deregulation

The Victorian Government is concerned that if parallel import restrictions were removed local publishers could have less incentive to print books in Australia or to produce Australian editions of overseas books as frequently as they are currently producing. This would likely result in less book printing in Maryborough.

It should be noted that books are only a portion of the “publication” printing that takes place at MPG’s Maryborough plant and that the plant produces a significant amount of non-book publications that would not be impacted by any change to the restrictions.

However, if a relaxation of parallel import restrictions were to lead to decline in the number of books printed in Maryborough, this would result in a loss of jobs and could ultimately place the plant at risk. Given the economic conditions in the Maryborough region, this could have significant flow on effects on the community, particularly in the current environment.

Book Publishing

The current strength and diversity of the book publishing sector in Victoria is evidenced by the *Melbourne City of Literature Submission*. One of the criteria used in UNESCO’s assessment of Melbourne’s bid to be designated a City of Literature was the presence of a broad-based publishing industry, preferably represented by independent publishing houses.

The Australian Publishers Association identifies the following major sectors of the Australian publishing industry:

- trade publishing;
- schools educational publishing;
- tertiary and professional publishing;
- independent publishing;
- children's publishing; and
- scholarly and journal publishing.⁵

Melbourne’s independent publishing sector is the largest in Australia, with education and children’s publishing also demonstrating impressive strength. A healthy industry featuring multinational publishers like Penguin and Lonely Planet, as well as notable independent book publishers such as Text Publishing, Hardie Grant, Black Inc., Melbourne University Publishing and Scribe Publications, is enriched by energetic high-quality small presses and smaller publishers of books, journals and magazines.

In 2004, there were 234 book publishing businesses in Australia, of which around 66 are based in Victoria.⁶ Of the Australian-based multinational publishing houses two, (Penguin Books Australia and Lonely Planet) are headquartered in Victoria. Three of the most high-profile independent Australian publishers are located in Victoria – Text Publishing, Hardie Grant Books and Scribe Publications. Currently, the education sector represents the largest publishing segment and the majority of educational

⁵ Australian Publishers Association Website, http://www.publishers.asn.au/about_us.cfm?doc_id=74

⁶ Australian Bureau of Statistics, 1371.0 - Book Retailers, Australia, 2003-04, Australian Bureau of Statistics, 1363.0 - Book Publishers, Australia, 2003-04.

publishers are located in Victoria, including Cengage Learning, Macmillan Education and Pearson Education Australia.

Implications of Further Deregulation

The Victorian Government is concerned that if parallel import restrictions were relaxed publishers might be less inclined to invest in publishing or in marketing activities to support local or emerging authors, or authors that do not have a proven sales record.

Book Selling / Retailing

Victoria has a large and diverse book selling sector, with independent booksellers enjoying a larger market share than elsewhere.

Independent booksellers in Melbourne enjoy a substantial market share – some 20 per cent – unlike much of the Western world, where large chain bookshops and discount department stores dominate the sector.

Book retailing generated around \$2.5 billion in revenue nationally in 2007, with 34 per cent of the retail book sector located in Victoria.⁷ Victoria has the largest number of book retailer head offices in Australia. Assuming an even distribution of book buying across Australia, the Victorian book retail market would have a value of around \$850 million per annum.

Key book retailers in the Victorian market are:

- REDgroup Retail (formerly Angus & Robertson and Borders);
- Dymocks;
- Collins Booksellers (including Book City); and
- Readings Books Music Film.

Two hundred and thirty-five book retailers have their business head office based in Victoria. At 42 per cent, this is the highest in the national total. NSW is next with 35 per cent. Three hundred and seven bookshops or book retail locations are in Victoria (34.3 per cent of the national total). NSW is next highest with 33.6 per cent. Victorian book retailers provide around 2,656 jobs, pay wages of \$61.7 million and generate total income of \$453.1 million each year.⁸

Implications of Further Deregulation

A removal of parallel import restrictions may result in benefits to some booksellers, allowing them to order the best priced and most quickly available editions of books. Given the level of competition in the sector it is likely that consumers would also benefit as lower prices of parallel imports would be passed on to them. However, the Commission will need to balance the additional benefits of removing the restrictions with any negative impacts on the Australian publishing and printing industries.

The Victorian Government notes that there is a diversity of views within the book selling sector, with the Leading Edge Group of booksellers arguing that current

⁷ IBISWorld, Newspapers, Book and Stationery Retailing in Australia, 29 October 2008.

⁸ Australian Bureau of Statistics, 1371.0 - Book Retailers, Australia, 2003-04, Australian Bureau of Statistics, 1363.0 - Book Publishers, Australia, 2003-04.

copyright arrangements should, as a whole, be maintained⁹, while the Dymocks chain has called strongly for the removal of parallel import restrictions.¹⁰

Arts and Cultural Sector

It is the Victorian Government's view that the current policy settings have contributed to the strength and diversity of the writing and publishing sectors in Victoria.

While the Victorian Government recognises that removing parallel import restrictions may reduce the cost of some books to consumers (although this may be confined to 'remaindered' titles and some other best-sellers), these benefits need to be balanced against potential implications for consumer choice, for the literary arts and culture sector, and the publishing and printing industry.

Writers and small publishers could be detrimentally affected by the removal of parallel import restrictions. The restrictions have contributed to small independent publishers flourishing, and many of these are based in Melbourne. These small but significant and award-winning publishers have come to characterise Melbourne's independent literary character and there are many more in Victoria than elsewhere in Australia.

These publishers also publish many Australian authors, providing first opportunities for young or emerging writers. Arts Victoria occasionally supports the development of manuscripts published by independent publishers, or assists these publishers with some of the costs of publication.

While additional subsidies could be provided in place of import restrictions to ensure the ongoing viability of these valuable enterprises, it would involve increased Government support, including administrative costs such as establishment and ongoing support of funding program staff, advertising of programs, etc. and would also involve Government in key 'selective' decisions in place of market forces (as they currently stand).

The Victorian Government is concerned at the impact of changes to restrictions on parallel importation on the literary arts and independent publishing. Melbourne's independent publishers are a significant contributor to the State's reputation as a cultural capital supporting artists and innovation.

The literary arts and cultural sector can be described as an "ecosystem" in which the smaller, local businesses contribute to Victoria's reputation for innovation and comprise an essential core element in a vibrant, flexible and responsive industry sector.

Consequences of relaxing parallel importation restrictions could include a reduction in local and specialised forms of literature, especially creative or innovative forms of writing, reducing opportunities for local writers, and leading to less awareness among Victorians of local writers and writing.

⁹ Bookseller + Publisher Online, Leading Edge meetings 'unanimous':retain copyright--with modifications, 10/12/08, <http://www.booksellerandpublisher.com.au/articles/2008/12/10360/>

¹⁰ Bookseller + Publisher Online, Publishers, booksellers respond to Productivity Commission terms of reference, 12/11/2008, <http://www.booksellerandpublisher.com.au/articles/2008/11/10093/>

Current Economic Climate

There are significant economic challenges from the fallout from the global financial crisis, particularly from the impact of slowing global demand, tightening credit conditions, falling asset prices, and lower consumer and business confidence. This is evident in the downward revisions to Victorian gross state product as noted in the 2008-09 Budget Update released in early December 2008.¹¹

In assessing the potential costs of reform, the Commission should take into account the current economic climate and the potential impacts that reform may have on firms and workers, particularly noting that the Victorian book printing industry is regionally concentrated.

While the current uncertain economic climate is not a reason to defer reform, the Victorian Government wants to ensure that reforms have a clear net public benefit and that transitional issues, such as possible job losses, are taken into account and consideration is given to the potential need for Commonwealth transitional support.

Further Deregulation Options

As this submission has highlighted, the Victorian Government considers that there are significant benefits from the current arrangements, although these are believed to be in part offset by high prices faced by consumers. However, as the issues paper noted, to date the available data on the extent to which prices are higher, and in which segments of the market, has been limited. Any robust analysis that the Commission can undertake in this area will be useful in clarifying whether there is any scope for targeted relaxation of the current restrictions that might generate a net benefit.

In the absence of such detailed and robust analysis it is difficult to identify specific options for reform. In specialised areas of the market where competition is low, parallel import restrictions may result in higher costs (price differentials between local and overseas editions), but not generate substantial benefits in terms of encouraging Australian authored or otherwise tailored content. As such, consideration could be given to reforms specifically targeted at specialised segments of the market.

Another possible targeted modification to current policy settings might be to keep the 30-day rule unchanged but to modify the 7/90 day rule to reduce the period of time available for a local distributor to supply copies of a title before a bookseller may import copies without the permission of the copyright owner.

Targeted reforms may potentially improve the efficiency and effectiveness of current arrangements while maintaining the benefits of the current light-handed regulatory approach to the industry, consumers and the literary arts and cultural sector.

Conclusions

The appropriateness of the current policy settings is demonstrated by the current diversity of choice for consumers (both in terms of titles and independent retail outlets) and the strength and diversity of the book selling and publishing industries in Victoria. The current policy settings have resulted in a healthy and diverse publishing industry; a high level of choice and competition in the book retail market resulting in good outcomes for consumers; and a vibrant literary arts sector supporting and

¹¹ 2008-09 Victorian Budget Update, <http://www.budget.vic.gov.au/CA257401000ED28B/pages/budget-update>.

providing opportunities for emerging and established Australian authors. These outcomes have been achieved with minimal direct support from Government for the sector.

The Victorian Government acknowledges that removal of parallel import restrictions may potentially result in cheaper books and greater choice for Australian consumers. However, our view is that consumers are already very well served by a large, competitive and diverse bookselling sector and that the marginal benefits to consumers from a relaxation of parallel import restrictions would be unlikely to outweigh the costs of deregulation to the industry and the impact on the production of locally produced content.

Further, Australia is facing significant economic uncertainty which is putting jobs at risk and is creating a challenging environment for businesses. This environment means that the flow on effects on industry may be more acute.

Unless the Commission can categorically demonstrate through strong evidence that the potential benefits of relaxing restrictions outweigh the costs, the Victorian Government's view is that the Commission should not recommend a wholesale removal of parallel import restrictions.

If the Commission is to recommend a significant reform to current arrangements, it should also give consideration to the need to provide transitional assistance to affected industries.