

Date: 26/10/2011

Retail Inquiry  
Productivity Commission  
GPO Box 1428  
Canberra City ACT 2601

By fax: 02 6240 3311

Dear Sir/Madam,

**Submission by Mur Thai Foods: Economic Structure and Performance of the Australian Retail Industry - Impact of Intellectual Property Laws on parallel Importing**

Page 142 of the Productivity Commission's draft report states as follows:

*'International price discrimination against Australian retailers has also been raised in submissions as being an important contributing factor to retail price dispersion. Specifically, this discrimination is in the form of brand owners or international suppliers/manufacturers charging higher prices to Australian retailers relative to the prices they charge to similar retailers in other regions. These comparatively higher international supplier prices are then passed on to consumers.'*

The reality of Australian consumers being charged higher prices for goods in comparison to consumers in foreign countries is not a new issue. However it is important to ask why Australians are being charged higher prices from retailers who sell direct to the Australian public. When dealing with the prices of clothing and apparel, the highly supported answer is the lack of competition and the monopolistic marketpower of the multi-national corporations and brand owners. One of the main factors that prevent competition in the Australian Retail Industry, and subsequently the lowering of prices, is the Australian intellectual property laws that prevent parallel importing.

Unlike the United States which employs the first-sale doctrine, which deems rights are exhausted when goods are sold outside the distribution chain, Australia's IPL laws, particularly the *Copyright Act*, prevent retailers from re-selling goods purchased overseas without the direct license of the copyright owner. Consequently, the rights holders in copyright can prevent parallel trade eliminating competition against non-licensed distributors creating monopoly practices in Australia.

Whilst the Australian parliament has acted to prevent price discrimination practices in books, CDs, gaming and software products, the legislation has overlooked copyright issues in such items as clothing goods and apparel.

To address the above we agree with the submissions of W Lawyers and Paul's Warehouse recommending amendments to the copyright legislation.

Ms. Hean Mok  
Director  
Mur Thai Food Co Pty Ltd