

Michael Heyward

The Rudd government is about to ask the Productivity Commission to investigate the import rules for books. We have had this debate many times. It is truly a debate about the whole world of writing and publishing and bookselling and reading. If you change the import rules everything is up for grabs. You can't change them without changing our copyright laws, and you can't foster creativity or fairly reward writers without the integrity of copyright.

The rules we work under now have given us the books of Tim Winton and Kate Grenville, the entrepreneurship of Allen & Unwin and Black Inc., the creativity of booksellers like Mark Rubbo at Readings or Barbara Horgan at Shearers. We have pulled ourselves up by our bootstraps to build a book industry worthy of the name.

Rudd Labor is a supporter of copyright. It says so in its national platform, adopted in April 2007. In September last year Peter Garrett promised that 'Labor will examine ways to adequately protect artists' copyright given the challenges posed by new and emerging platforms and changes in consumer patterns.'

Labor has consistently supported the so-called 30-day rule since the Hawke-Keating government introduced it in 1991.

Under this law a book must be made available in Australia within 30 days of its publication anywhere in the world or the bookseller is free to import any edition it likes. This use-it-or-lose-it principle protects the copyrights of Australian writers

while it compels publishers to release books in a timely manner. By bringing out Australian editions first, our publishers can prevent US or UK publishers dumping low-royalty stock here, ripping off our writers and stealing the market.

The last time this issue came up, during the Howard years, Labor's then shadow minister of the arts Bob McMullan made an impassioned speech in the House of Representatives about why copyright matters:

Proper copyright protection laws are fundamental to the success of a modern economy. They protect the interests of creators and protect their capacity to generate income from their innovation; they therefore encourage innovative activity. The existence of copyright and the continuing enforcement of rigorous copyright protection regimes allow creators to generate an income from their creativity through royalties or other payments, and they foster investment in creative works by businesses in Australia.

McMullan voted against the Copyright Amendment (Parallel Importation) Bill 2001 which would have opened the market without qualification. So did Kevin Rudd, and the current Attorney General Robert McClelland. The legislation did not reach the Senate, where it faced defeat.

McMullan is right. Copyright is the cornerstone of creativity. It is all a writer has to sell, all a publisher can license. Territorial copyright is the guarantee of copyright itself: it allows writers to determine where the editions they have authorised can be sold, and to be paid according to the contracts they have signed.

The 30-day rule remains the most innovative territorial copyright law in the world. It represents an ingenious solution to the problem of how to protect both the producer and the consumer.

Look at what has happened since this law passed. The number of books being published in Australia has increased dramatically from a very low base. Some highly successful independent publishers have emerged. These publishers have expanded the national conversation. We have some of the best bookstores in the world, and our independent booksellers have withstood the challenge of the chains and the department stores. Our writers are becoming international bestsellers, are being nominated for the most prestigious awards. Our foreign rights business is booming. (At Text, for instance, we earn as much for our writers by licensing foreign editions as we do through domestic sales.) The law has been a boon for Australian printers, for whom as many as 40 percent of the books they manufacture are import replacement as a direct consequence of the 1991 legislation.

Last year Griffin and McPherson's, the two leading book printers, wanted to merge, arguing that their survival was otherwise uncertain. The ACCC blocked the merger on the grounds that it would stifle competition. Without import restrictions it is more likely that one of these printers would fail because publishers would no longer need to print locally to secure their territorial copyrights. The consequences for books would be bleak. As the ACCC observed, the absence of competition among printers 'will likely lead to higher book printing prices (or lower service conditions) for publishers, and, ultimately consumers'. More expensive print prices would mean fewer and

dearer books, fewer authors published, fewer innovative publishers, less choice for consumers.

Writers in the US, UK and Canada all enjoy territorial copyright, alongside Australians. The current law puts Tim Winton and Ian McEwan, Cormac McCarthy and Margaret Atwood, on the same footing. The exception is NZ, which permits parallel importation, but because its books are largely supplied through Australia it is hard to translate any experiences there, positive or negative, into what might happen here. Every now and then, however, we get a glimpse of what might happen to Australia's leading writers if the import rules were changed.

Last year Peter Temple, whom we publish at Text, won the coveted Gold Dagger in London for *The Broken Shore*, which was judged the best crime novel in 2007 in the English language. No Australian had won the Dagger before. It was a huge achievement for a remarkable book, and it became a bestseller. Royalty-free copies of the UK edition were dumped here illegally and sold by a prominent chain, a foretaste of what would become routine for many Australian writers if the law were changed. Purchasers of those dumped copies had no idea that the writer was being ripped off.

Let's be clear about what the unqualified removal of import restrictions would mean. US, UK and Canadian copyright law would continue to prevent the sale of Australian editions of Tim Flannery or Geraldine Brooks or Helen Garner in those countries. But there would be nothing to prevent US or UK or Canadian editions of their books being sold here, no matter what contractual agreements had been made.

Booksellers are also winners from the introduction of the 30-day rule. Australian consumers enjoy the best mix of book retailers in the English-speaking world, the right balance of chains and independents. We have a very high consumption of books per capita. Until A&R acquired Borders earlier this year no retailer had much more than 20 per cent of the market. The support of our fabulous independent bookstores can turn a book into a bestseller, a laughable proposition in the other English-language territories.

Why is this? Do our booksellers have the best of both worlds? They already have importation rights no bricks and mortar bookseller has in the US or the UK or Canada. Their market is effectively open for thousands and thousands of titles. The bookseller is allowed *at any time* to parallel import individual copies of a title on customer request. The consumer can *at any time* parallel import for own use. No edition is unavailable in Australia for the customer who wants it.

But the booksellers also reap all of the benefits of a secure market in which publishers can confidently invest, hiring and training editors and designers and publicists and marketing staff. A market that can be secured encourages publishers to take risks on the range of books on their lists. Australian publishers work hand in hand with booksellers every year spending millions of dollars to promote books. The trade would be a less welcoming place without this co-operation.

Our bookselling environment is dynamic. Booksellers can set their own prices. We have aggressive discounting cultures so that the average selling price of bestselling books is far below the recommended retail price. Those discounted editions of Tim

Winton or Helen Garner still earn their writers full royalties because they are domestic editions. It was, on the other hand, a surprise to discover, when the ACCC investigated the A&R acquisition of Borders, that both chains routinely inflate the prices of some books above the recommended retail price. It is difficult for booksellers to argue about the prices of books if this is a widespread practice. We would have the worst of both worlds for our writers if booksellers, having been allowed to parallel import without restriction, marked up low royalty foreign editions of Australian books.

Lower prices encourage habits of book buying and reading, which is clearly in the national interest. But international experience would suggest there is no essential relationship between parallel importation and lower prices. English-language books are not cheaper in Europe or New Zealand, both unqualified open markets, than they are in the US or the UK.

Our booksellers are worried about Amazon. Its business has grown in Australia, even though it has not set up shop here. Books are often cheaper on Amazon, despite freight costs. And consumers on Amazon don't pay GST, which is hardly fair for Australian booksellers. On the other hand, writers are paid full royalties on books sold by Amazon. The migration of consumers to online buying is not going to be modified by changing our import laws. And why should a shift in buying patterns provide an excuse to erode the copyrights of authors? This is precisely the point Peter Garrett was making.

Competition is what constrains prices but that competition must be fair, or we end up with a distorted bargain-basement market. Without territorial copyright you cannot have fair competition. Fair competition allows for many different kinds of publishers and booksellers. Anything that harms our independent booksellers and publishers will diminish our reading cultures, and a market open without qualification would work to the advantage of the chains and the multinationals. Fair competition means doing everything we can to foster our printing industry. These are the proper goals of policy.

The book industry matters. We are a massive success story. We pay our way. More than 60 per cent of the books sold in Australia are originated here. The publishing industry is bigger than film and recorded music combined. Australian books alone contribute at least \$75 million dollars a year to the Treasury through the GST, and its total take is probably in excess of \$150 million. The government makes more money through the GST than writers do through royalties. The Literature Board gives just a few per cent of that GST revenue back to writers in the form of creative grants.

The government does not collect statistics on the industry, and has no way of measuring the activity of Australian book entrepreneurs. Rudd Labor now has an opportunity to look at our book industry entire. We need policies to encourage our creative cultures, and to allow us to enhance further our international selling skills. Above all, we need to do everything we can to protect and promote our writers. Our stories are in their hands, and their fortunes are in ours.