

TO: Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Copyright Restrictions on the Parallel Importation of Books

1. I refer to the above commissioned study and thank you for the opportunity to make this submission. Along with the submission, I am providing a copy of the submission coversheet, as required.
2. I am a philosopher and literary critic, based in Melbourne, where I teach part time in the School of Philosophy and Bioethics, Monash University. I am also a freelance writer and editor who has published extensively in Australia, the United Kingdom, the United States of America, and elsewhere.
3. I freely acknowledge that much of my expertise (e.g. in legal philosophy and philosophical bioethics) is of peripheral relevance to the topic of this commissioned study. Setting that aside, however, I have considerable knowledge of the worldwide publishing industry and specialist expertise in the field of science fiction and fantasy.
4. For example, I am a co-author (with Van Ikin and Sean McMullen) of the leading monograph on Australian science fiction: *Strange Constellations: A History of Australian Science Fiction* (Westport, Conn.: Greenwood, 1999). I am an editorial consultant to *Science Fiction Studies*, the leading refereed journal in the field (published in the US), and the author of the 16,000-word article on American science fiction in the authoritative four-volume encyclopedia of contemporary American writing, *Books and Beyond: The Greenwood Encyclopedia of New American Reading* (Westport, Conn.: Greenwood Press, 2008). I am also the author of the article on science fiction in *The Literary Encyclopedia* (an on-line resource) and the articles on Australian science fiction in the authoritative publication edited by John Clute and Peter Nicholls, *The Encyclopedia of Science Fiction* (London: Orbit, 1993), and the recently-published volume edited by Nicholas Birns and Rebecca McNeer, *A Companion To Australian Literature Since 1900* (Rochester, NY: Boydell & Brewer, 2007). I have had some success as a writer of popular fiction, including four novels published in the US.
5. As a general proposition, I favour free trade. Indeed, I recognise that even unilateral lowering of trade barriers has benefits for any country that is prepared to go it alone. One effect is that goods which can be produced more efficiently overseas can then be imported more readily, with savings for the country's consumers.
6. In the case of the book industry, I don't doubt that some Australian retailers would be able to find sources for cheaper books if the current thirty-day rule were abolished and hence: (1) overseas editions could be imported without the current time restriction; and (2) books published in overseas editions could be imported and sold in competition with Australian editions. Although I am not in a position to quantify the benefit to consumers, there would doubtless be some non-negligible benefit.

7. However, benefits and detriments need to be weighed against each other. The analysis in the previous paragraph is consistent with the possibility that the economic benefit to Australian consumers from abolition of current restrictions would be rather small. At the same time, the harm done to Australian writing could be large.

8. I expect that the economic benefit to consumers would, indeed, be small because abolition of the current thirty-day rule would have no effect at all on the prices of a vast range of books that are published overseas and are never published in an Australian edition. At the same time, the prices of imported books would continue to be affected by the costs of transport and handling.

9. The theory of trade suggests that unilateral lowering of trade barriers creates benefits by allowing easier importation of goods produced more efficiently overseas. Given the much greater populations of countries such as the US, publishers in those countries are undoubtedly able to achieve economies of scale that enable them to produce books more cheaply (and thus, in economic terms, more efficiently) than Australian publishers. It follows that, to some unknown extent, the elimination of the thirty-day rule will see a replacement of books published in Australia by books published overseas, e.g. in the US. If the theory of trade applies, it follows that there will be some loss of manufacturing (and jobs) in the Australian publishing industry or at least some change in what it does.

10. It might be said that loss of jobs in the Australian publishing industry frees up human resources for deployment in other industries where Australia has a comparative advantage. But is this really the correct way to look at an industry such as publishing? There might be nothing but advantage to Australia if *some* kinds of manufactured items were increasingly imported from overseas, with a loss of plant and jobs here in Australia. This could free up resources to be used elsewhere, encouraging entrepreneurs to find industries where Australia has a comparative advantage. Thus, additional wealth would ultimately generated by the Australian economy. Accordingly, although there would be some dislocation, even unilateral lowering of trade barriers on such items might, on balance, have benefits for Australian society as a whole. However, this analysis does not apply where there is a public interest in retaining a particular industry within Australia. To take an example remote from publishing, there might be circumstances where Australia's defence capacity requires that we retain certain industries even though this is not an efficient choice when analysed purely in terms of the theory of trade.

11. I submit that there is a significant public interest in maintaining the viability of the Australian publishing industry and the vitality of the Australian literary community. Any balancing of benefits and detriments must take this into account.

12. If the current restrictions were abolished, some kinds of publishing would be little affected. There would probably be no impact on most small presses, which tend to be driven by motivations that are largely non-economic. There would probably be little impact on the publication of books that are likely to be popular in Australia, but with little prospect of selling well overseas (for example, the memoirs of Australian politicians). However, I would expect to see a dramatic impact on trade publishing of

books by Australian writers that have any realistic prospects of also being successful overseas.

13. This is because there is no incentive for a trade publisher in Australia to risk money on a book that is likely to be published in a rival overseas edition. Given the economies of scale obtainable in the US and elsewhere, the overseas editions would sometimes, perhaps often, be more attractively priced even after transport and handling costs. Even a very slight disadvantage in pricing (and a hence a very slight advantage to the consumer) could make it too risky for an Australian publisher to go ahead with such a book. Accordingly, if current restrictions were abolished we should expect Australian trade publishers to get out of the business of publishing all but the most parochial kinds of fiction. We should also expect them to get out of the business of publishing non-fiction books on any topic that is of widespread interest beyond Australia's shores.

14. If this happens, it will have a negative impact on established authors, some of whom benefit considerably from being able to sell books in both Australian and overseas editions. These authors will no longer be able to obtain separate advances against royalties in Australia (while it is unlikely that advances paid for foreign editions of their books will increase in value). Royalties will be lost where lower levels of royalties apply to "foreign" sales (i.e. sales *to* Australia *from* a country such as the US where a book is actually published) or when American, etc., overstock ends up being sold in Australia. For some established authors, these effects may well be sufficiently significant to destroy their careers (forcing them into more "efficient" activities, no doubt).

15. An even more important effect will be on less established authors. They will be forced to sell to small presses, in which case they will be able to pursue their writing as no more than a hobby — since small presses offer little in the way of financial rewards to their authors. Alternatively, newer authors will be forced to write very parochial books for Australian trade publishers (but this market will quickly become overcrowded). Or else they will have to take their chances directly with overseas publishers. What will be lost? Simply this: there will no longer be opportunities for Australian authors to establish themselves with Australian trade publishers, possibly moving on to publish overseas at a later stage. If this had been the situation in the recent past, many promising careers would never have been nurtured and we would have far less vitality in the Australian literary community.

16. Accordingly, abolition of current restrictions will produce some economic benefits to consumers (probably rather small) while having an impact on the Australian publishing industry and the local writing scene (probably quite drastic). Some established authors will no longer be able to maintain professional careers; in many cases, new authors will never get their careers off the ground.

17. Perhaps some scheme could be devised to compensate established authors, although such schemes have their own costs and it is difficult to see how such a scheme would work. In any event, there is no way to compensate authors whose careers are nipped in the bud — no particular individual could prove his or her loss in these circumstances. The only way out that I can see is some kind of bounty for

Australian publishers for each book published by an Australian author — or some kind of tax concession for publishing books by Australian authors. I don't favour these: they would need to be financially significant, could well be unpopular in many quarters, and would be vulnerable to cutbacks or total abolition in future years.

18. I submit that the scenario I've described should be avoided. Even though some small benefit would be gained by consumers, the overall outcome would not be in the public interest. The detriment to the success and vibrancy of Australian writing would outweigh the small economic benefit. As in other areas such as science and sport, Australia has punched above its weight in the international world of writing and publishing. As Australians, we should be proud of this record. I submit that no action should be taken that puts it at risk (any more than we should contemplate such actions as abolishing the Australian Institute of Sport in order to save taxes).

19. Finally, I should indicate that I, personally, would probably not be affected financially by any change, since I have never published anything longer than short stories with Australian trade publishers. I have written for a variety of publishers overseas, including medium-sized trade publishers; in Australia, however, I have written for academic publishers and small press. I acknowledge that not all Australian writers would suffer detriment if the current restrictions on parallel importation were dropped, and I am not driven to write this submission by concern about my own situation. Rather, I am sufficiently familiar with the Australian writing scene to be concerned that any change would severely damage some established careers, while many promising new careers would be nipped in the bud.

Yours sincerely,

Russell Blackford
6 January 2009