

Productivity Commission Study

Copyright Restrictions on the Parallel Importation of Books

Submission by: Spinifex Press

1. History

I entered the publishing industry in the 1987 and worked at Penguin Books for four years. I then left Penguin and co-founded with Renate Klein the independent feminist publishing house, Spinifex Press. Right from the beginning we were engaged in the international market. Our first book, *Angels of Power*, published in Australia in May 1991, was advertised by two distributors in the USA in June 1991. We soon had distributors in UK and NZ markets, and in 1993 established the position of Export Manager in our company.

In entering the international market, we also became active co-producers of books published in other countries by publishing houses that shared our aims and who wished to enter the Australian/NZ market. WE embarked on mutually beneficial international publishing projects.

This ability to publish writers with an international reputation, enhances our reputation with booksellers in Australia. Also, as a small and independent publisher, it enables us to publish significantly more books than we could afford to, were we to originate the same number of titles.

This has been a successful business strategy for us. With an over-inflated market in the last three years, we are now co-publishing an even greater percentage of our titles than we were before 2006.

2. Record

During the 18 years of our existence we have published almost 200 titles. This is unusually high for a feminist press – both in Australia and internationally. Our authors include internationally known writers from several continents; writers previously unpublished in Australia from countries such as Botswana, Philippines, South Africa, India; Australian writers – from those with an established record to those who've never been previously published; writers range in age from eight to eighty. A number of writers have stayed with us and we have published four or more of their titles.

We have been active in selling translation and territorial rights, with one book achieving fourteen translations, while others have been published in three or four languages. More than 60% of our originated list has had some kind of sub-rights sold.

We have sold books directly into distribution markets in the USA, Canada, UK and NZ. Our profile in these markets has been enhanced by the list of internationally known authors included in our catalogue – even if those authors are not available in that market. Familiarity with certain high profile names carries weight when dealing in rights internationally.

3. Business information

Spinifex has mostly run as a very lean operation, although in 1997, when our output and turnover peaked, we had seven employees. Since 2006, the press has run with two full-time positions shared between four of us (including co-owner Susan Hawthorne).

Our turnover over eighteen years has ranged from just under \$100,000 to \$350,000 with peaks in the late 90s and early 2000s.

Export revenue usually sits at about 30% of our overall turnover, with a variability of around 10%.

4. Australian and overseas authors

Overseas authors have always been an important element in our publishing program as Spinifex is an international feminist press. Currently, we are publishing slightly more international authors because of our shift to increased number of co-productions. In the past, around 40% of our titles have been by overseas authors and this has now moved to around 50-55%.

5. Production

All our originated books are totally produced in Australia (we have printed overseas on just two occasions). Our co-produced books are usually produced overseas, although our designer and editor are frequently involved in making changes for the Australian market. Furthermore, on occasion when we buy territorial rights, as opposed to a co-production, books are designed and printed in Australia. This enables us to meet the 30-day rule.

Our ability to increase the number of originated titles is dependent on the success of our co-productions which assist our cash flow and our marketing profile in Australia.

Case study

a). The 30-day rule has been critical for us on a number of occasions in helping us to protect territorial rights. In 1993, we co-produced a book with HarperCollins USA by US writer Janice G. Raymond. Janice Raymond is an internationally known feminist writer whose work is read and studied throughout the world. Janice Raymond spoke to a sold out venue when she came to Melbourne in July 1994. In 1995, at the release of the paperback edition, HarperCollins Australia advertised her book as forthcoming from them. This was not through ill-intention, but simply by accident. Because we had purchased and published in the 30-day period in 1993, we were able to enforce this rule and ensure the availability of her book through us. Because we have published her, her loyal market was interested in hearing her speak again and two further invitations were sent to her to travel to Australia for speaking engagements and media. In the HarperCollins list, her book may have been overlooked as one of many titles. We were able to give her work the marketing support it deserved.

The success of this title allowed us to publish this author again in 2001, this time holding world rights and now world electronic rights for our growing eBook program. World rights on the initial publication are now held by us, not HarperCollins USA.

b). In late 2008, Spinifex acquired world rights to Maria Mies' autobiography, *The World and the Village*. Since 1993 we have co-published with Zed Books five books by or about Maria Mies. The result is that she approached us to publish the English-language version of the book. Had we not worked with Zed Books over the last 15 years, keeping to the 30-day rule and keeping her work in print, this important autobiography would be published somewhere else in the world, not Australia.

6. The 30-day rule

Since the 30-day rule came in, we and other Australian publishers have sought to retain territorial rights through quick turnaround from overseas publishing houses. The books are in Australia at almost the same time as they would be if they were ordered directly on-line from a US or UK publisher – but at a cheaper price because online ordering incurs heavy freight costs for consumers. It also ensures dependable local availability at shorter notice and lower cost. When the book is released by an Australian publisher, it gets additional promotion suited to the local market. These are all in favour of the consumer, not as has been suggested in the parallel importation documents against consumer interests. It also ensures continuing diversity of Australian publishers.

7. Impact of parallel importation

It is unlikely that we would survive the introduction of the new arrangement. Why? Because it will undermine our ability to produce more books, more flexibly within the market. Co-producing books and purchasing territorial rights give us a greater range of titles and enables booksellers to purchase easily a wider range of Australian produced titles. This does not jeopardise Australian authors, to the contrary, strong relationships between publishers in different countries improves the chance of Australian authors being picked up for overseas markets. Furthermore, a viable publishing program of a range of authors supports the publication of new, emerging and established Australian authors.

Without the 30-day rule and with open importation of books from anywhere, publishing will no longer be a viable activity for us. As it is, the climate of the last few years has meant walking a tightrope and finding new ways of publishing, just at the moment when we feel we have come up with a useful way of proceeding, parallel importation will thoroughly undermine our plans.

The history of Australian publishing is a history of colonisation. First of all as a British colonial publishing outpost; since the late 1980s as a major market for US publishers; since around 2000 as an important market for multinationals of the order of Random House and Hachette. The implementation of parallel importation would be another layer of colonisation and result in the death of

many important middling to small publishers. The only ones likely to survive will be the very very large or the micro. Among independents, I can think only of four unsubsidised major independents who have the resources to survive (excludes university and Indigenous presses).

Parallel importation will not be a plus for authors – nor for independent publishers. Our relationships with authors are our core business. A book published in Australia and selling for \$24.95 might be published in a much larger print run in North America, but doesn't completely sell out and so it is remaindered to the highest bidder (in the USA 25c is a high bid for remainders). It could easily be dumped on the Australian market where the author is better known and sold at \$3. No standard Australian publishing contract is likely to result in royalties on such dumped books.

8. **Why is the government considering this legislation when:**

- It harms Australian culture and reduces bibliodiversity.
- It will cause (not might cause) a number of independent publishers to go to the wall, thereby increasing concentration in the hands of the few.
- Booksellers will no longer have access to a much wider range of published material (including books originating in UK and North American markets).
- Bookshops will be filled with brand-name authors and ever-fewer books published by independents.
- Independent booksellers who thrive on a diverse range of books in-store will struggle to survive.
- Australian authors' work will be dumped back into the Australian market at bargain basement, royalty-free prices.
- Australian authors will not receive royalties on dumped books.
- Consumers will have access to a decreasing range of books (unless they prefer to buy on Amazon in another country and pay the heavy shipping costs).
- There will be no price benefit to Australian consumers, especially when the Australian dollar is low against the USD and the GBP.

9. **Summary:** The proposed parallel importation legislation will not benefit *any* of the stakeholders in the *Australian* book and publishing industry (large publishers included whose own titles may be undercut by dumping). The number and diversity of independent publishers and booksellers will be reduced. It should therefore be rejected on grounds of harming both the economy and the culture.

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