

Productivity Commission Submission

Hardie Grant Publishing January 2009

Hardie Grant Publishing is one of Australia's largest Australian owned independent publishers. Based in Melbourne Hardie Grant was established in 1998 and now employs over 100 staff, has an annual turnover in excess of \$45m and is investing in the export and local markets to support annual growth of around 20%.

Hardie Grant publishes adult non fiction and children's books and 20% of the above turnover pertains to magazines.

This submission is made by Sandy Grant, Chief Executive. I am a former President of the APA, ran one of the world's largest book publishers in the UK for some years. I have many years experience in national and international industry issues and as a Director of Copyright Agency Ltd have significant knowledge of national and international copyright legislation and practice.

Hardie Grant Range

Hardie Grant authors include national treasures Margaret Fulton and James Halliday, participants in public debate like Malcolm Turnbull and Bernard Salt, humourists including Rob Sitch (Tom Gleisner and Santo Cilauro), Dave O'Neil and Denise Scott, sports figures from Andrew Gaze to Andrew Symonds and Michael Hussey. Patrick Lindsay, Reg Livermore, Nick Jose and many more.

In children's many of our authors have now sold hundreds of thousands of books here and overseas in our successful series. They include Jeanette Rowe, Tony Wilson, HI Larry and Meredith Badger.

We also publish with SBS (we are their official publisher), RACV, NRMA, The Australian War Memorial, Fremantle Media, the Victorian State Library and other businesses and institutions.

We also own and promote publishing brands including Explore Australia, Wisden Australia, Go Girl and Zac Power and license or import Thomas the Tank Engine, Winnie the Pooh, Tin Tin and other characters.

We import books from three UK publishers and three US publishers whose authors include Gordon Ramsay and Jill Dupleix.

And we buy rights from a range of authors overseas.

70% of our business is the local publishing (meaning Australian resident authors or institutions), the balance imports and rights purchases (that are printed by Hardie Grant – usually in Australia.)

Hardie Grant Infrastructure and Suppliers

Hardie Grant placed \$4.5m of printing in Australia last year with companies owned by PMP, Hannan Group and MacPhersons.

We employ an extensive range of freelance editors, proof readers, journalists, photographers and spent \$3.5m on these costs in 2007/8 financial year.

Other critical suppliers include film houses and other pre-press businesses.

Critical Issues

- **Censorship** – on more than one occasion in my working life and in particular with the Spycatcher trial, legal action was required to clear the right to publish in Australia. If parallel importation was allowed the incentive to fight for the right to publish in Australia would diminish. In the case of Spycatcher the book was published in the US while we still were appealing in the High Court. If we had won – after four years and many costs we would have been some months behind Penguin US and booksellers would have imported the US edition while we went in to production (until then subject to Court injunctions). Meaning our international competitor would be the principal beneficiary of our legal action. Who would drive legal action in this situation? The incentive to fight and win would fall to the author who would not have the resources. Any book banned or challenged book would lack an advocate confident that their defence was financially justified.

- **US/UK Competition** - if Australia proceeds and changes these laws Australian publishing will be put in an untenable competitive situation. Neither the US or the UK – our only real competitors – will allow us to import and compete but they will be free to import to Australia. As a smaller market we already suffer competitively with economies of scale. Opening the market would exacerbate those economies by dividing the Australian market between editions. Further, Australian printing would lose volume and thus their economies affecting their investment and our ability to have an internationally competitive source locally.

- **US/UK Availability** – there is much analysis of the comparative US and UK prices but little of availability. In fact Australia is almost unique internationally with the range of titles made available. We actively import and make available most titles from the US and UK. The same cannot be said for any other English language markets. The US has few UK titles and virtually no Australian books. The UK has limited access to US titles. Europe, Japan and Asia have extremely limited access to English language books or translated UK/US. Any comparison that criticises availability in Australia should carefully examine how well served we are compared to all English language and other markets.
- **Investing in Australian Culture** – Australian publishers have steadily invested in the broadest spectrum of Australian culture - from serious literature and poetry, to popular culture (including art, sport, humour, food, travel) and youth culture. Enabling other editions to legally compete will reduce this investment. For most countries this is not an issue. They have language protection, not territorial copyright. But given our shared language with the US and UK, giants in the copyright world, we would be exposed in a way no other mid-sized economy would be exposed. The French, Germans, Swedish etc have a natural protection to their cultural investment and development we are not afforded. It is suggested cultural subsidies would be a better alternative. Given books touch so many aspects our intellectual, artistic and popular culture it is hard to envisage how this could possibly work.
- **An Investment in an Industry of the Future** – publishing is one of the few industries where Australia has shown it can become a significant global player. At a macro level News Limited have shown we have the skills in this country to create global enterprises. At a micro level Lonely Planet have proved the same. English language has given us a skill set and advantage that could be used as a platform for long term international growth. Copyright industries – in print or online- are industries this nation can develop and industries where we have current skills and opportunities. Instead of trying to eke out possible minor consumer benefits at the cost of copyright, we should be developing an industry plan and supporting export to existing and emerging English language markets. What sane Government would spend billions supporting the car industry whilst ignoring the development of copyright industries?

- **A Market Not a Publishing Centre** – the suggested changes to open the Australian market to competing editions will change this market from a publishing centre to a marketplace. By this I mean the market will be driven by and trading (wholesaling and retailing being dominant) not by publishers looking to develop writers and ranges. When I joined publishing this culture was prevalent. The company I worked for in 1976 decided to enforce their territorial rights because retailers and UK wholesalers were over-pricing our ranges. We used to promote titles and allow fulfillment to come from any international source. The impact was booksellers taking high margins wherever they could. Pitman thus introduced local stock and Australian RRP's to avoid this bookseller rorting.
- **Will Prices Fall?** – a trip back to the early seventies and nineteen sixties would suggest they won't fall. In fact they may well increase. Booksellers are driving this change, not consumers, and their aspirations are for margin improvement. Many publishers enforced territorial copyright to reduce prices – not increase them.
- **Competitive Editions?** – implicit in the arguments of the advocates of change is the assumption that there are competitive sources for books they perceive as overpriced. But for most of the 250,000 English language books published each year this is not true. The monopolistic nature of supply will not be changed – simply the source. Books will not stocked by an Australian wholesaler with their perceived territorial copyright-defended monopoly, but by retailers. The sole price at source still set by a monopolist in the US or UK with our retailers only being forced to compete on an incredibly narrow range of titles – perhaps 1% of what is published where multiple editions are published.

Effect on Hardie Grant Publishing

- 1. Force us not to sell international editions or heavily proscribe those sales by contract. This will reduce our income and our attractiveness to US and UK buyers.**

As an example we recently published two highly successful international books. Both won Best in the World awards in 2006.

Case Study 1 - Turquoise, by Greg and Lucy Malouf ARP \$75.00. Hardie Grant published this title as a sequel to a highly successful book Saha. Both are cook books on Middle Eastern food. Hardie Grant invested in these books sending the authors and a photographer to Turkey for some time to accumulate recipes, travel information and photos. The investment was dependent on our ability to sell to the US and UK markets. In the UK Quadrille publishing acquired rights and in the US Chronicle Books acquired the rights – both paid advances against future royalties of around \$20,000. However the royalty rate they would pay was relatively low compared to the Australian rate. The reason being the authors have no reputation and would not be available in the countries in question to promote the book.

The UK felt strongly that with an unknown author (and an Australian so unavailable to the local media) they needed to sell on price not author reputation. They priced the book at 30 pounds. Similar arguments led the US publisher to price the book at \$50.00. Both prices are below the Australian price despite the fact we carried all the original costs and risks and managed the author relationship – principally because the author could not command a full royalty in their secondary markets. (UK royalty was 1.5 pounds, US\$2.50, \$A8.00). Hardie Grant printed the books for all three markets at one source enabling us to make some profit on the transaction.

If booksellers could import these slightly cheaper overseas editions our Australian sales would have been reduced, the investment would not have been made. The Maloufs would need to look to move overseas or other ways to win international reputation and establish a US or UK principal publisher.

Case Study 2 - James Halliday's Wine Atlas of Australia \$79.95. Australia's leading wine expert produces an important and highly detailed reference book that is regularly updated. This edition released in 2006 was sold to Mitchell Beazley in the UK and the University of California Press in the US. Hardie Grant printed all copies of the book in one print run, 30,000 copies. 21,000 for Australia, 3,000 for the UK and 5,000 for the US.

In the UK Mitchell Beazley underwent management and ownership changes after the book was acquired for their specialist wine list. They decided it was not a book they should have acquired and decided to price low to limit their risk. It was launched at 20 pounds. Half the Australian price. Their view was Australian wine was of limited interest in the UK and price was the factor that would attract potential buyers.

In the US the University of California Press priced at our price but the book failed to sell. They had excess stock of 3,700 available for clearance at low margins. Both these sources would have undermined our sales and brought in to question the viability of such a substantial investment. The author would have lost substantial royalty income because clearance is subject to reduced royalty and the UK price was the factor that determined the UK royalty. UK royalty at 10% of retail price means a 2 pounds royalty, against 10% of the ARP, \$8.00 royalty.

2. Change our policy of importing with selective partners reducing our income, and our ability to invest in infrastructure.

In addition to our Australian publishing we have formed alliances with five international publishers. Three from the UK, three from the US. We import their ranges pricing to the market and enforcing territorial copyright.

Case Study – Gordon Ramsay, Healthy Appetite, \$49.95. This title is our fifth in collaboration with his UK publisher, Quadrille. We have introduced him to Australia funding author tours on four occasions, introducing him to television executives, funding his appearance at food festivals etc.

The US price is US\$35.00, UK pounds 20.00, Australian price \$45.00. Although prices are comparable given currency fluctuations in recent times there were discrepancies. We published Healthy Appetite June 2008 when the A\$1 = US\$0.95. Booksellers could have improved their margins by buying from the US and free riding on our investment in his author tour. (The impact would be for us tour fewer authors.) Sales of Gordon Ramsay titles have been around 100,000 copies at \$20.00 wholesale. With no author tours and competing editions I estimate our sales would reduce by 70%.

Case Study 2 – Thomas the Tank Engine ranges. Thomas is a globally successful range and we have the territorial rights via a JV with Egmont UK. We work with TV, licensors and others to position the character and the range in this market. Annually we invest substantially to develop brand awareness.

Pricing across the international markets and formats vary wildly. Given there are hundreds of titles in hardback, paperback, added novelties etc there are always going to be disparities. Booksellers or wholesalers could find titles to introduce and compete effectively free riding on our investment.

The impact would be to reduce our investment in brand development and range availability in Australia.

3. We acquire rights in titles from time to time and print in Australia. We will stop this practice completely.

Using Book Fair meetings with publishers, reviews in international magazines and US and UK bestseller lists we buy five to ten licenses from overseas publishers. We print the books here and tour an author or spend marketing money to build market awareness. With no security about the territory we would stop this practice. Impact would be a loss revenue and profit from this source.

Case Study – Stuff White People Like, Christian Lander \$24.95. This is a quirky humorous look at liberal intellectual behaviour. The book was published in the US for \$14.00. There were no copies in the market and no obvious demand when we offered to acquire Australian rights. We have now printed 7000 copies here and priced it at \$24.95, arranged for him to attend the upcoming Melbourne Writers Festival and have arranged a broad media campaign to introduce his work to Australians (radio interviews, newspaper reviews and excerpts). If a bookseller now introduced the competing cheaper US edition we would not have the volume to justify the expenditure and the printing in Australia. We would simply leave the possibility of the book being picked up here to the US publisher and retailers.

Summary

If it aint broke don't fix it.

There is tenuous evidence that book prices are inflated. Some imported categories are higher, some lower, some produced in differing formats so price comparison is not possible

And there is less evidence that reducing the barriers will reduce prices. It hasn't happened in New Zealand.

Prices were very high in the 1960's and 1970's when open markets operated.

The book market is far more complex than the "\$29 CD" with a massive range and breadth of titles and formats with vastly different production costs and processes.

We have a robust industry that has grown well, grown its exports and is a business in which we have some competitive strengths that could lead to further growth.

This change will reduce the confidence of the industry to invest and to export, damaging our publishing industry, including authors and affiliated businesses.

Copyright is a building block for investment security. Copyright industries are an exciting growing area.