

## MURDOCH BOOKS' SUBMISSION TO THE PRODUCTIVITY COMMISSION

### COPYRIGHT RESTRICTIONS ON THE PARALLEL IMPORTATION OF BOOKS

#### BACKGROUND ON MURDOCH BOOKS

Murdoch Books is an independent, privately owned, Australian book publishing company. Set up some fifteen years ago, the company was originally a subsidiary of Murdoch Magazines, publishing largely magazine style cookbooks on sale through newsagents and supermarkets. Although still a specialist in high quality, illustrated lifestyle books, especially in the Food category, over the past seven years, the business has diversified and now publishes a wide range of trade titles under the Pier 9 imprint. This diversification has accelerated since 2004 when the magazine business was sold and the books company became a stand-alone operation. In 2006, the company also acquired its first and only agency, Quercus Books, a new start-up publisher in the UK, specialising in commercial illustrated non-fiction and a wide range of fiction.

#### THE MURDOCH BOOKS LIST

Historically, the Murdoch Books publishing programme has been totally originated in Australia with Australian authors. This has changed slightly in more recent years, as some 10% of the company's revenue is now generated by the agency business, and from the middle of 2009 there are an increasing number of titles on the Pier 9 list for which we have acquired ANZ rights from overseas publishers, but even taking these two factors into account, the majority of the list will continue to be developed in Australia.

The Murdoch Books imprint specialises in illustrated books, especially in the Food and Drink category, where the company has established an international reputation. This list is characterised by high production values, innovative design, and excellent value for money in that we aim to "over deliver" to the customer's in terms of the quality of the book compared to the retail price. As a result, the creation costs of these titles are very high and overseas sales are essential to their overall profitability.

Given that the creation of highly illustrated books differs significantly from the publication of fiction, it may be helpful to briefly outline the production process, which will in turn throw light on the high level of costs involved and the resulting high level of risk being taken by the publisher.

The majority of the illustrated books list is created by the Murdoch Books publishing team. They originate the ideas, research and commission the appropriate writer/s and provide a detailed synopsis of the content. In the case of a Food title, the publishing team also commissions the stylists and photographers, prepares and manages their briefs and directs the photo shoots. Every recipe, every photo and every page of the book has therefore been created by us. Even when there is a single author involved in the book, the design and illustration of the book remains the responsibility of the publisher.

Many titles will be in development for twelve to eighteen months before they are ready to go to the printer, and then there is a further process of three to five months as the book pages go back and forth to the printer for colour correction and final approval. As a result, the process is both time consuming and expensive.

The Pier 9 imprint has a strong popular history list, plus a range of biography, narrative non-fiction and fiction titles. Although this part of the list is less differentiated from more mainstream publishers, it is still characterised by high production values. The majority of authors on this list are first time Australian authors and the company puts significant care, attention and resources behind these titles in order to give these debut titles their best chance in the market. So although these books tend not to be illustrated, the design, formats and print embellishments are also a significant addition to this part of the publishing programme.

In the 2008/2009 financial year, the decision was taken to increase the level of investment in the list and as a result, there has been a 40% increase in the number of new titles being published this year,

from a little over a 100 in the prior year, to around 145 in the current year, 70% of which are on the Murdoch Books imprint.

## PROFILE OF THE COMPANY

Murdoch Books Australia has a team of 48 staff, across Publishing, Editorial, Design, Production, Sales, Marketing and Finance/Administration. The only area of the company's business administered by a third party is distribution, with invoicing, despatch and credit collection being handled by ADS. In addition the company has a fully owned subsidiary in the UK, Murdoch Books UK, which is a sales and marketing operation with a further 8 staff.

As all Murdoch Books and Pier 9 titles are originated and produced in Australia, nearly half the staff are involved in the publishing of these titles. We have a significant editorial team project-managing all the titles, a highly skilled, in-house design studio and a very extensive team of more than 100 freelance editors and designers contracted to work on individual books.

The company is the 10<sup>th</sup> largest publisher in Australia, despite having only a tiny fiction list and no children's titles, and has a total market share of more than 2%, although obviously a considerably larger share in our speciality areas where we have more than 20% market share.

As indicated above, export sales (sales of our own titles in English into New Zealand, South Africa, Europe and Asia), rights sales licensing of our titles to internationally based publishers for them to translate and print themselves, and co-edition international sales, where we print and ship finished books using the partner publisher's translation files, are a critical part of the business.

Of the company's total turnover, the breakdown is as follows:

- 50% Australian market
- 20% UK market
- 20% International rights and co-edition
- 10% Export

## MURDOCH BOOKS' POSITION ON TERRITORIAL RIGHTS

The way in which the current territorial rights legislation within Australia has developed has been widely traversed, but it is important to emphasise that in the current 30/90 day "use it or lose it" environment, Australia already operates under a controlled open market. This affords dedicated Australian publishers such as Murdoch Books, the same copyright protections as the publishers in other major markets such as the UK and the USA, while ensuring that publishers respond responsibly, quickly and efficiently to the demands of their bookseller customers. If they fail to do so, they lose their exclusive copyright under the current rules.

The threats to this business, if this element of control were removed, are as follows:

1. Dumping, particularly from the USA but also from the UK and other English language export markets.

Much of the company's significant business in the USA is comprised of firm sale, one-off orders direct into major American retail chains. Although these deals are at low margins, the high volumes add significantly to the economies of scale of the print runs of these titles, plus the revenue generated helps to cover the very high production costs involved in the type of illustrated books produced by this company. In order to meet the price demands of these deals, however, the international print runs are frequently "down specked" with lower grade papers, fewer embellishments and more mass market cover treatments.

If one of these deals fails to sell through in the USA market, under an open market these unsold books would be remaindered into Australia, a historically appealing dumping ground for unsold books, at ludicrously low prices. Given the state of the USA book market post the global financial crisis, this risk has increased exponentially.

This would not only decimate the ongoing backlist sale of these titles in Australia, but would also have a very damaging effect on the reputation of the list, which has been built on quality and the reputation of the author. In many cases, our plans to nurture and build our authors beyond their first book would be impossible if the sales of their first title were undermined in this way.

It has been suggested that individual book contracts could protect against this problem but in our view, that is simply not the case:

- Many of these deals are not secured under contract;
- Even if they were, the original purchaser only has to sell to a USA remainder dealer and from that point on the provenance of the book becomes very blurry and it is almost impossible to invoke the protection of that contract.

While these situations already occur, the current territorial copyright allows us to address the situation with infringing publishers, but under an open market we would be defenceless.

## 2. Implications for the Australian Bookselling Market

The significant majority of Murdoch Books' rapidly growing author list is comprised of first time Australian authors. We are one of the few publishers accepting unsolicited manuscripts, we are prepared to invest considerable time, energy and resources into working with those authors to bring their work up to publishable standard, and we then publish their books with very high production values in an effort to ensure that they stand out when they reach the bookshop shelves.

This has been a successful strategy for Murdoch Books, but largely because the thriving independent bookseller sector has supported our efforts and embraced these books.

Under an open market, it is inevitable that the major chains, both book trade and general retail, are the players best positioned to exploit the change in rules. They have centralised buying teams, volume negotiating power and they control their own centralised distribution. The pressures on the independent sector are already gaining momentum and faced with that level of increased competition, it is inevitable that their market share will drop.

As a rule, the chains do not support first-time authors. They wait until the independents establish a market for an author and then "jump on" later if the book develops a good pattern of sale. We are hugely dependent on the independents' ability to "make a book" and if that support were to dwindle, our ability to commit to these authors would have to diminish accordingly.

It should also be noted that the healthy market share that the independent booksellers currently enjoy in this country, is not only the envy of the UK and the USA, but this sector of the industry is also crucial in terms of the service they are able to offer the community. Their knowledge, advice and range are all critical factors in increasing literacy rates in young people.

## 3. Purchase of Territorial Rights

A significant aspect of the company's growth strategy for the Pier 9 imprint is to selectively buy ANZ rights for interesting narrative titles, both fiction and non-fiction, being published in the UK and the USA. In our view, these books stand a considerably better chance of success in this market, if they become part of our publishing programme, with all the commitment, passion, and sales and marketing support that this entails.

Without the market protection afforded to our international colleagues, however, we would have to reassess the viability of this aspect of our publishing programme, in the face of any bookseller legally being able to buy the parent edition of any of these titles. It becomes very

difficult to justify author tours, marketing spend, investment in stock, when you do not know that you have the exclusive right to the sales of that particular book.

The comments with regard to the dumping threats on the illustrated programme, are just as relevant and just as dire for this part of the list.

#### 4. Commitment to Growth

Murdoch Books is an Australian business, providing considerable work for more than 200 writers, photographers, stylists, designers and editors. Over the past four years in particular, we have invested heavily in the growth of our list, and over the last six years the company has doubled in size.

This investment has been possible because the exploitation of the international markets has allowed us to generate high volume sales out of a relatively narrow range of titles, which has in turn allowed us to take the time to develop new writers and new styles of publishing. The economic viability of this business relies on the balance of sales across the various market channels, which is placed under threat in an open market.

#### General Summary

There is no doubt that the market has changed in recent years and that it will continue to do so, with the growth in on-line retailing and digital publishing in particular. There is also no doubt that this has increased the level of expectation of the book buyer, with regard to the speed with which a new book is available in this country and the price that they have to pay for it.

In the face of this changing marketplace, publishers therefore need to continue to be mindful of the pressures on their bookselling colleagues, and to efficiently supply the market with the right books at the right time and the right price. In large part, the 30 day rule has encouraged this approach.

The supporters of the open market contend that the removal of any territorial rights will make books available more quickly and reduce the retail prices. I would strongly challenge this view.

Under the 30 day rule, major new titles are already published simultaneously with the first overseas publication. This has been made possible by the growth of the local printing industry and the technological advances that have allowed print files to be sent quickly and easily around the world. If a publisher fails to publish these larger titles responsibly, they already lose their exclusive rights under the current arrangement.

The availability argument therefore relates to the mid-list and the long tail titles and the issue here is solely a function of distance. Australia will always be a long way from the source of supply. For the books that cannot currently be printed in economically viable runs in Australia, the only way of making them available is to freight them into the country. While individual bookshops may be able to economically air freight low volumes of some titles, and obtain the stock faster than a publisher can obtain stock by sea freight, on the whole, any purchaser of stock from the USA or the UK, whether they are a publisher or a bookseller, has to freight the books in and air freight for anything other than very small volumes, is simply not affordable.

I therefore struggle to understand how a bookseller sourcing a book from a USA wholesaler in any reasonable volume, can get a book to Australia faster than a publisher purchasing from their own parent company's warehouse.

Then there is the issue of price. Stating the obvious, there are two major drivers of retail pricing for externally sourced books. One is the exchange rate at the time of purchase, and the other is the margin expectation of the purchaser.

Exchange rate can only be managed, not influenced, therefore the driver of price is margin. In my experience, retailers are heavily focused on margin and apart from the price reduction of some major new titles which are highly competitive in the marketplace, the retailers are more and more frequently increasing the retail prices on books, wherever they consider they can enhance their margin without losing sales.

This Christmas a number of Murdoch Book titles were sold by major retailers at **10% more** than the recommended retail price that we had felt was appropriate for the market.

Many of our retailers routinely increase the price of our core backlist titles in order to increase their margin.

I therefore strongly question the assumption that any savings the bookseller believes they could make in an open market would be passed on to the consumer by way of reduced retail pricing, when the only evidence that currently exists is that an increasing number of booksellers are strongly focused on increasing their margins by increasing retail pricing, or failing to deliver improved pricing as a result of higher publisher discounts.

It is also critically important to note that both the USA and the UK, our major competition in the English language, both operate in closed markets. Their markets are considerably larger than ours, yet through professional management, innovative publishing and a very serious commitment to Australian culture, Australian publishers have built a strong and vibrant local industry. Opening this one territory in this environment, simply delivers a huge handicap to these Australian publishers, unable to sell freely into the UK or the USA, but operating in an environment where any of their retail customers can freely buy product in.

In conclusion, the retention of territorial copyright is the issue at stake here and we are simply asking for a level playing field with our major competitors and an environment that allows us to publish, sell and market our books in the same way as our international colleagues. A reduction in the period of time required to establish that exclusivity seems to be fertile ground for discussion, provided the critical territoriality is preserved. The intrinsic unfairness in the absence of GST on books sourced by individuals from overseas retailers, should also be addressed as a matter of urgency.

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