

**Dear Sir/Madam,**

I respectfully tender this submission as both a creator and consumer of books.

I appreciate you have a great amount of material to consider so I will do my best to be brief.

By way of introduction I should mention that I am fortunate to be one of Australia's more successful authors - My books having sold more than 18,000,000 copies in 115 countries. I blurt out this immodest statement in order to emphasise that, as the majority of my sales are in foreign territories, my views on this issue are not influenced in any way by professional or financial imperatives.

Indeed, should the worst-case scenario come to pass and the total abolition of Territorial Copyright be made law, I may well be one of the few Australians who might even profit from such an outcome. In spite of this embarrassingly elite and somewhat traitorous confession, I am still very much against any reduction of Territorial Copyright on moral and cultural grounds and am thus strongly for preserving the current conditions.

**My reasons are as follows:**

**1. There is no discernible benefit in relinquishing Territorial Copyright.**

I believe in free trade and, more importantly, the unfettered exchange of ideas. However, even if only from a business point of view, for any change in Territorial Copyright guidelines to be fair and positive all relevant parties must be on an equal footing, or at least enjoy some sense of parity in their approach. Should a small territory, like Australia, take a backwards step in regards to our claims of Territorial Copyright, even in the context of a balanced negotiation, our publishing marketplace would immediately become vulnerable to both foreign predation and ambivalence. Furthermore, to make changes to English language Territorial Copyright laws when no other parties are willing to take an appropriately complementary position is, quite simply, commercial and cultural suicide.

**2. Authors' right to determine the fate of their work must be protected.**

Authors have always had the ability to independently and judiciously assign their rights to specific publishers in any territory they wished. Territorial Copyright ensures that this continues. As an author, you are entitled to sign all rights over to any one publisher for global commercial exploitation on your behalf or, as in my case, you can allocate these rights carefully to more than one hundred separate publishers around the globe. The author's ability to undertake such negotiations to their best advantage is based on commercial merit and, in some special cases (though alas, not mine), literary reputation. It is important to note that a publishing company is neither a printing factory or a clearance house but a complex collection of creative talents, each of whom leave

their mark upon the manuscripts that they help craft into published books. This is why, when choosing a publishing partner for any territory, authors make a careful and informed choice on the basis of who will be editing their work and how the finished book will be produced and promoted.

To dismantle Territorial Copyright denies authors and other creators the right to make key choices as to how they wish their work to appear in certain territories. For example, I would never allow an American version of my work to appear in Australia, or vice versa, without first being revised by a local editor in consultation with myself.

If anything the 30 Day Rule should be slightly extended to allow greater consideration to be given to the adaptation of foreign works in consultation with the authors. English is not a universally consistent language and mistakes are easily made. One need only consider that 'fanny' is harmless slang for bottom in America (much like 'bum' is here), and yet also a rather vulgar term for female genitalia in most parts of the United Kingdom and Australia (and don't even get me started on Aussie thongs, versus American flip-flops versus New Zealand jandles...). I know, speaking personally, that I am always very grateful to receive insightful language suggestions for my own books from translators and editors in parts of the world where I have limited knowledge of local customs and idioms.

Cultural consideration is of key importance to me and almost every other writer/creator I have ever met. Only very few authors will ever have the commercial influence insist on contractual arrangements that prevent negative outcomes. Our right, as creators, to control the destiny of our life work needs to be protected, especially in our own country. The Australian public is similarly entitled to have access to literary works that take into consideration their own approach to language.

### **3. The 30 Day Rule has been a success.**

In my opinion, the 30 Day Rule is a sound one and, on weight of evidence, appears to be working well. The current position ensures a suitable sense of commercial urgency that encourages the energetic promulgation of knowledge and ideas both at home and abroad. It also stimulates the local industry to be proactive and bold in their creative and commercial choices. Such results greatly benefit all Australians. This brief 30 day *use-it-or-lose-it* period of grace is, by any measure, a long way removed from suffocating protectionism or cultural insularity. Furthermore, whilst supporting our own creative community and publishing industry, the 30 Day Rule actively prevents cultural and commercial apathy from taking root within any and all English language publishers.

In short: The 30 Day Rule ensures that we Australian booklovers enjoy the greatest variety of literary works without compromising the rights of authors, both local and foreign, or jeopardising the commercial viability of local publishing houses and booksellers, both large and small.

In the context of relative cultural and economic influence, the 30 Day Rule is a great equalising force for good.

### **4. The economic reality of Australian publishing - A few best-selling books generate the bulk of all investment in Australian voices.**

Should the 30 Day Rule be abolished the books instantly becoming the primary

target of international publishers would be the most popular and commercially lucrative works that, quite frankly, keep the whole glorious machine running. A simple three step introduction to Australian publishing economics is as follows:

- i) The majority of new books do not recoup their initial royalty advance
- ii) Of those few titles that make back their advance, most are never reprinted.
- iii) Of those precious few books that are reprinted, most are only reprinted once, and the number of copies reprinted is significantly less than the original print-run (FYI: the average initial Australian print run being between 7,000 and 12,000 copies).

The bottom line is that in spite of the incredible amount of work that goes into writing, producing, distributing and marketing every new title, there are still far more misses than hits.

Publishing is a very risky business with huge front-end costs. Without the profits generated by a few major best-sellers many Australian publishers could not stay afloat. And those larger houses that could remain in business would certainly be forced to axe staff, mercilessly cull their publication lists and would not have virtually any resources left to invest in local writers, alternative voices or indeed anything but potential blockbusters.

Fresh voices, domestic and foreign, would largely vanish from local bookstore shelves which would become perpetually clogged with John Grisham clones (not that I have anything against his particular legal thriller formula per se ...).

In a market the size of our own such investment in Australian stories and story tellers is vital to maintain our intellectual independence and cultural identity. Allen & Unwin Publishing, for example, had would not be a major Australian publishing house today, or such a great champion of Australian writers, were it not for their tremendous success with the mega-selling Harry Potter series (written by British author, J.K.Rowling). Allen & Unwin won the local rights for this epic series in an open bidding war and their boldness paid off handsomely, for both themselves and the author. Without the 30 Day Rule Allen & Unwin would never have had the opportunity to grow, and both new authors and much worthy, though perhaps less commercially viable work would never have been published - instead Allen & Unwin would still be a boutique firm or be out of business, and we would probably be buried in cut-price American editions of *Harry Potter & The Goblet Of Fire*.

I, for one, am proud that the commercial success of my humorous gift-books (The Blue Day Book Series, which has sold some 2,000,000 copies in Australia and New Zealand) has allowed my publisher (Random House Australia) to invest in emerging Australian talents. This reason alone compels me to assign my Australian rights to an Australian publisher, despite the fact that it is not always in my best financial interests to do so.

### **5. Against creativity - Lost profits equals lost jobs and loss of choice.**

There is no doubt that weakening the 30 Day Rule would drastically and irrevocably change the fortunes of many talented Australians for the worse.

Local publishers would be hamstrung by an immediate reduction in their profitability which would lead to less original works being published and, simultaneously, severely reduce the overall variety of books, both local and foreign in origin, being made available to Australian readers.

Furthermore a downsized industry will be forced to eliminate a great number of

skilled jobs, eviscerating a broad range of creative industries that Australian publishing currently sustains (writers, illustrators, photographers, designers, typographers...etc) - A position wholly at odds with the current pro-creativity and pro-education platform upon which the current Government was elected. Beyond the possible electoral reaction the irksome question remains: If the Australian government won't protect Australian copyright, then why should successful Australian creators stay in Australia? There are a number of other countries that offer superior copyright protection and tax incentives to successful artists and writers.

## **6. Other ethical considerations.**

Destroying Territorial Copyright would create a 'print big and dump cheap' mentality among the major publishers in the USA and UK.

In order to secure a lucrative monopoly the largest international companies will attempt to maximise their profit margins by seeking out the lowest possible paper, printing and shipping costs – Such commercial tactics are fundamental to any retail business. By virtue of massive order volumes that far exceed our own, they will be in the position to force suppliers, especially those in developing nations, to accept excruciating commercial terms that may ultimately compromise the environmental standards and ethical working conditions that we rightly uphold in Australia. This has already happened with children's toys, fashion products and athletic shoes and will just as easily happen with books.

Furthermore, the only way to compete with the crushing commercial tactics employed by such publishing sweatshops, without exploiting Australian workers and the environment, is to send more skilled Australian jobs offshore and/or import cheaper raw materials from abroad (such as a rainforest's worth of pulp).

Monopolies are never healthy for the market or the consumer, especially when they restrict our access to knowledge and ideas and affect our use of language and cultural identity. This is why the Australian Broadcast Authority has strict limitations on media ownership and cross media control. Sadly no such conditions are in place to prevent Australian publishers and booksellers being wiped out by international publishing giants and book chains who see our country merely as a dumping ground for cut-price books.

## **7. Irreversible damage.**

It should be noted that the damage wrought upon the Australian publishing and bookselling industry by the elimination or minimisation of Territorial Copyright could not easily be undone. There is no simple, remedial course of action to reverse the financial hardship, unemployment and diminished consumer choice that would result from such an outcome.

The complete derailment of the domestic publishing industry would take place quickly under the guise of free trade and consumer savings – at least that is how such devastation will be justified by those who directly and indirectly profit from it – theirs could be called the "Walmart Defence".

There are numerous well-known precedents where multinational food and hospitality giants have been able to squeeze local competitors out of the market by initially selling a premium product at an impossibly low price: For example, many

local pizzerias were put out of business by the Pizza Hut franchise who rolled out aggressive introductory 'two for one' offers, free home delivery and gratis garlic bread. Similarly, countless milk bars collapsed when McDonald's brought out their prefab hamburgers and cut-price 'meal deals', and then corner coffee shops were forced to close their doors as well when the same fast-food empire launched their McCafé annex and, using their gargantuan bulk purchasing power and a ruthless business strategy, slashed the price of espresso coffee to the bone. Prices in all categories may have now normalised but these local Australian businesses are gone for good.

At this very moment, independent bookstores and the major chains are struggling to stay afloat. A single influx of cut-price foreign edition bestsellers next Christmas may well be all it takes to seal their fate.

Keep in mind that Australian publishing is not selling hamburgers – we trade in knowledge and wonder. The minds of young Australians are at stake.

### **8. The death of the Australian voice.**

Last but not least, reducing our entitlement to Territorial Copyright would slowly but surely cut out the Australian tongue.

There is no reason why American and British publishers would take any great pains to adapt their bulk stock to suit the Antipodean ear, and no regulatory body could ever enforce any meaningful editorial guidelines. In time, such commercial indifference would become commonplace and through cultural osmosis we would gradually lose our unique way of speaking and ultimately the Australian way of seeing the world and our place in it.

At first, we might overlook the excessive use and unusual placement of commas. Then perhaps the lack of vowels would pass unnoticed. Before long readers would forget and forgo the difference between a cattle station and a beef ranch, mustangs and brumbies, bushrangers and outlaws, cowboys and jackaroos.

Similar is not Same.

This is not about justifying prejudice and exclusion, but about acknowledging and celebrating what makes us who we are. I do not for one second dispute the quality of foreign authors - We are fortunate to be able to enjoy the fruits of their genius.

But I wish for my children and grandchildren to know what the Australian voice is. As a young boy I loved (and still love) Beatrix Potter's charming stories, and Joel Chandler Harris' hilarious morality tales featuring the irrepressible Brer Rabbit and his Tar Baby nemesis - however an Australian childhood also needs to include The Muddleheaded Wombat, Snugglepoot and Cuddlepoot, The Magic Pudding, Blinky Bill, Dot and the Kangaroo and Possum Magic ... To name but a few.

A healthy Australian publishing industry is vital if we hope to ensure the preservation and celebration of the Australian voice.

Considering the many grievous errors in our collective past we, of all people, should know the value of preserving our language and our culture.

### **9. Updating the 90 Day Rule.**

Finally, I have a few brief points to make in favour of updating the current 90 Day Rule.

I believe that the 90 days, the window of time permitted to deliver a book for which

the publisher holds the territorial rights, should be significantly reduced to reflect both modern printing and distribution technology and also meet current and future consumer expectations.

In 2009 the archaic notion of waiting three months to receive a book is wholly unacceptable. We have come a long way since the invention of moveable type and Cobb & Co mail deliveries. Such an extended delay only encourages complacency on the part of booksellers and publishers to the detriment of authors and the literate public.

Furthermore, in my experience, many publishers frequently abuse this 90 Day Rule and only reprint when it suits them, usually after compiling a build-up of orders that wholly compensate for the initial expense of the exercise. I appreciate the obvious commercial considerations but if local publishers wish to control the territorial rights of any literary work then they are both morally and legally obligated to meet all their responsibilities or they must forfeit any commercial advantage.

I have never heard of a publisher losing their rights to a book for failing to meet the 90 day requirement even though I have waited much longer than this for books in the past myself. Also I note that most publishing contracts do not reflect this legal obligation, often giving the publisher a far more generous period of time, even as much as six months or a year, before the author has any recourse to sever the relationship with just grievance. Individual contracts may vary of course, and perhaps that is part of the problem, but my point is that this is a flabby aspect of industry practice that needs to be whipped into shape.

I contend that the 90 Day Rule needs to be shortened and properly supervised. In my professional opinion 60 days and even 30 days is plenty of time to make good on an order, and I would certainly like to see a 30/30 Day Rule come into effect as a result of this commission, or perhaps even reverse the order and provide for a 90/30 Day Rule: 90 days to adapt and publish a work, and 30 Days to deliver it upon request or relinquish said rights.

It is possible a modest 'rapid-reprint premium' should initially be added to a special-order book in order to offset some additional costs associated with quickest possible delivery (such as express postage and so on). An agreed surcharge, say 10%, would still make the exercise more affordable and desirable than the alternative - which is being forced to order the same book, albeit with alien spelling, punctuation and grammar, from abroad (when such an object is available). In time new printing technology (such as we see already with POD (print-on-demand, or publish-on-demand)), streamlined distribution networks and increased domestic competition would eliminate such additional costs.

I should point out that numerous international online booksellers, such as the various incarnations of AMAZON.COM, have little trouble delivering new, second-hand, rare and out of print books to rural Australia well inside a 90 day window. Australian publishers need to lift their game in this area.

**Thank you for taking the time to consider my submission. I wish you all the best with your deliberations.**

**Yours gratefully,**

**Bradley Trevor Greive**

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