

20 January 2009

Parallel Importation of Books Study  
Productivity Commission  
GPO Box 1428  
Canberra City ACT 2601

Attn. Jill Irvine,

Dear Commissioner,

The attached brief submission is to the above inquiry.

Sally Milner Publishing P/L is strongly **OPPOSED** to any move to further 'open' the market for books imported into Australia beyond the effective regime that currently applies with the 30 / 90 day rules.

Our submission supports this view.

Yours faithfully,

Ian E L Webster  
Managing Director



SALLY MILNER PUBLISHING PTY LTD

**COPYRIGHT RESTRICTIONS ON THE PARALLEL  
IMPORTATION OF BOOKS**

SUBMISSION

20 January 2009

## **Company Background: 1989-2009**

The Company was formed in 1989, with 2009 being the 20<sup>th</sup> anniversary of the company's formation. We are a small publisher of predominately Australian authors.

During the early years after company formation the range of titles developed rapidly. There was a gap in the market for self-help, healthy lifestyle and "green living" titles and SMP moved to fill it, signing up well known writers in the field. The company employed at one stage up to eight full-time staff that were needed to handle the production requirements of a rapidly expanding list.

The early history of the company was notable for its development of the health range, however the period since the mid-nineties was significant for the development of craft books. Although the company had published craft since the beginning, during the early to mid '90's the interest in craft grew rapidly in the community. Craft consumer fairs became a feature of the landscape, and being promoted and sponsored by the major women's magazines they assisted growth of the market for craft "how to" books. This was not only an Australian phenomenon, but also took place in other western countries.

SMP certainly capitalized on this. The range and quality of craft titles and authors was second to none in Australia. Export markets were also developed, with distributors appointed in North America, UK, NZ and RSA. Foreign buyers recognized Australian titles for their creative and innovative designs. Our local authors were prepared to push the established boundaries and the resulting projects were of great appeal to overseas consumers. This was recognised by Sally as publisher and she demonstrated great ability to recognise and secure talent in the company's chosen fields. During this period the company began receive support from Austrade's Export Market Development Scheme (EMDG).

This period of growth in the craft area saw a corresponding decline in the health sales as publishing competitors, both local and offshore, entered the market. By 1995 the company had a greater number of craft than health titles.

Although the craft market was strong, it too was becoming more competitive. Other local competitors in craft included J.B. Fairfax Press, Kangaroo Press (now part of Simon & Schuster), The Five Mile Press, and Lothian Books.

SMP turned even more deliberately to development of export markets to help establish the company on a growth path.

In March 1999, the company was purchased by Binda Holdings Pty Ltd, a company owned by publisher Ian Webster who had already nearly 20 years industry experience as a non-fiction publisher, principally as CEO of Universal Press (now Universal Publishers). Ian and his wife Libby entered the company with the intention of building on its strengths and growing its profitability. Soon after the craft list of JB Fairfax Press was purchased and integrated into the SMP list.

As well as new titles from existing authors, new Australian authors and some overseas - based authors were contracted. Export sales were even more actively pursued. As well as the export of SMP editions, rights sales, particularly translation rights sales to Eastern European countries were developed from a 'zero base' and now some 15 foreign language publishers regularly access SMP craft and health titles for their domestic lists.

In addition, by 2005 the company began to publish regular co-editions (local editions under SMP imprint) with several UK publishers for the Australian, NZ and more recently SE Asian markets. These titles now comprise some 25% of sales.

The company mostly prints in SE Asia, with some black & white printing done in Australia. All pre-press processes (authorship, editorial, and book design) are done locally with local freelance contractors.

#### **Some company data since formation in 1989-**

**Titles published: 400      titles by 250 authors      (current list includes 150 titles)**

**Local authors published:              220**

**Overseas authors published:          30**

**Sales since formation: approx A\$15m**

**FTE employees: 4**

## The Effect of an Open Market for Books

There are various outcomes that would be negative for our business, our authors and for all our local editions.

1. We would immediately **suspend investment in new co-editions** with offshore publishers. Under an open market there would be little impediment to the originating UK publisher's distributors (in the UK and elsewhere) simply expanding distribution to Australia of their own foreign editions. This would completely remove the incentive for us to invest in such new titles, and so undermine our potential profitability from that source.

These titles are currently shielded from foreign editions by the **30-Day rule**, and the willingness of the foreign publisher to have assured distribution in Australia (and NZ) of a local edition published by us.

Current beneficiaries at risk: While our co-editions do not (generally) involve Australian authors, they often have a local design input and provide quality material for the local consumers in abundant volumes. Sales from this source also contribute significantly to our turnover and so to our ability to publish local Australian authors.

2. Our willingness and ability to **publish local authors** would diminish. Investment in titles by local authors is high and this will only be made when we can be reasonably assured of both local and offshore sales. Under an open market there emerges two significant risks to these income sources-
  - (a) Re-importation of originally exported books by a foreign remainder dealer to "flood" the local market in Australia. This would have the effect of undermining the income from local Australian sources for both publisher and author.
  - (b) Importation to Australia of titles licensed in English language to the UK or US markets. Although unlikely to occur with full price books from those markets, the remainder market is very fluid and opportunistic and books from that market (in the US particularly) could easily enter Australia as viable imports for both local importer and foreign exporter.
  - (c) Higher value local sales would thus be replaced by lower value export sales of our local edition, thus rendering the whole project unviable.

Current beneficiaries at risk: All local parties are disadvantaged. Authors because they will have fewer books published, SMP for the same reason and consumers because access to good local content will be curtailed as fewer books will be published locally.

It may be possible on occasions for higher profile authors to seek and gain lucrative publishing contracts with US or UK publishers. These authors may benefit from continued access to those offshore markets, and eventually Australia when the offshore publisher sees fit to supply us. However the vast majority of authors will not have that option open to them and will remain unpublished.

Even in the case when the author succeeds in gaining, say, a US contract, the Australian sales of the Australian authors' work in their home market where they may be better known will be lower return 'export sales' to the foreign publisher. The advantage of possible access to a US market through a US publisher will quickly be offset by much lower (or even nil) royalties from the final sales in Australia. The benefits from a US contract may prove to be illusory.

Also, the "threshold of pain" in US and UK publishing houses is typically lower than at SMP when it comes to longevity in the market, willingness to reprint and remain in stock. Many of our titles have been available for well over a decade and continue to be despite being no longer in high demand. Steady backlist titles that support our overall sales levels are common. They would not have survived as long under foreign publishing remainder thresholds.

Almost all our authors, however, are in the category of unlikely to be published at all. Many would lack the resources to pursue offshore contracts with all the attendant risks to cost and time that that process would entail. They would often be discouraged and give up.

3. Our ability to **sell foreign language rights** would be proportionately reduced because with fewer titles published there will be fewer available for sale in foreign languages.

With a smaller number of titles being published locally, who will pursue translation rights sales at the major fairs on behalf of the authors? Only those 'lucky' enough to have secured a contract with a foreign publisher could hope to access foreign rights sales in any volume. Even then, the originating publisher may tend to favour authors of their own nationality with whom they are most familiar. In our experience, overseas parties with licence to sell the rights to our titles are spectacularly unsuccessful when compared to our own success by direct negotiation.... there is little reason to expect that authors would fare any better.

Current beneficiaries at risk: All parties are at risk. Authors because they will generally not be able to enjoy their current share of foreign rights sales income, SMP because this is a major source of income from our participation in the worlds major rights fairs and foreign consumers who will not be able to access the material other than in English.

4. The amount of **book printing available to local printers will decline dramatically** in terms of both revenue and particularly volume. This will of course directly flow on to their suppliers and workforce.

The majority of SMP's printing is offshore and has been for many years. Our books are mostly colour books with a high labour content that has been unable to be printed competitively in Australia for decades. However, introduction of an open market for books will ensure the migration of what printing remains locally to the least cost Asian market that we can find.

In the absence of a viable local book printing industry, SE Asian suppliers will face less competitive pressure which may ultimately force up prices, as well as leave book printing purchases entirely exposed to exchange rate depreciation.

Current beneficiaries at risk; Printers, their suppliers and ultimately publishers and their authors.

5. It is well known that foreign editions ordered directly by consumers already enjoy a cost advantage relative to local supply by virtue of the absence of GST on those imports via courier or post. What may currently be a relatively small stream when compared to the overall market for books will, in the absence of counteractive arrangements, turn into an absolute flood of imports direct to consumer from **Amazon, Barnes & Noble** and the like when local availability is restricted, by the above effects, through traditional channels. And all GST free!

The local booktrade would play no part in this channel. This is likely to be an unintended consequence for those booksellers which currently support an open market model.

Finally, we recount the experience of one of our local SMP authors who has enjoyed very high returns from publication of their particular craft technique for around six years since their first publication with us.

Under the framework of the 30-Day rule, the author has-

- (a) **been published** when their technique was relatively unknown, and their personal profile as an author nil.
- (b) enjoyed **solid local sales** of 2 titles (both still in stock) to support her ancillary activities in her craft.
- (c) enjoyed even more spectacular **success in export** of our SMP editions to the main markets of US and UK, and sales to other English language markets. As yet no other author of this technique has emerged to challenge her dominance of this niche.
- (d) penetrated some of our **foreign language markets** (although the craft has not completely yet taken off in some markets as yet... craft can be very driven by fashion)
- (e) now begun work on **title no. 3**.
- (f) had her work **published in periodicals** and websites in both the US, UK and South America as a direct result of the publicity and awareness of her books.

Without our confidence in the local market we would almost certainly have not invested and taken the risk with this author and her originally little-known craft. The author would probably not have been published in book form at all.... and would not have enjoyed success on the international stage for her work.

## **Conclusion:**

For all the above reasons we strongly urge the Commission to once again reject the notion that a completely open market will benefit Australian book consumers. Any possible benefits that this “rationalist” approach may indicate will be largely illusory in practice, yet its introduction will cause havoc to the successful local publishing of Australian authors and all that benefit from their activity....local book consumers, the authors themselves, their publishers, their printers and all the employees of them.

Even the few proponents of an open market will soon see that the hoped-for benefits for their consumers and in turn their businesses are outweighed by the lack of reliable supply lead times, range of accessible titles and just plain fewer titles by Australian authors that now comprise the majority of their sales.

We request the Commission to recommend the following to the government-

- \*Maintenance of the current restrictions on parallel importation.
- \* Implementation of procedures to ensure that importers of GST-free books and the like from offshore pay GST as we are required to do.

Ian E.L. Webster



