

## **Submission to the Productivity Commission commissioned study into the Copyright Restrictions on the Parallel Importation of Books**

I have more than fifteen years experience in bookselling and publishing, in Australia and the United Kingdom. I am also a lawyer and follow legal developments relevant to the book trade such as those in copyright, trade practices, defamation and freedom of speech. I am committed to the existence of a distinctively Australian book culture as crucial to understanding, studying, celebrating and critiquing Australian society, nationally and internationally. I am currently employed as commissioning editor for a successful Australian non-fiction publisher, *The Federation Press*, an independent, Australian-owned and run publishing company specialising in legal, social and academic books. This submission is made independently of my employer and all content reflects my views alone.

### ***Parallel Importation Rules***

The existing rules provide the essential balance as required by the *Copyright Act* between the various property interests of creators, including commercial protection of their work, and the public interest in ensuring equity of access to this material.(1). The current rules also operate to ensure diversity of publication so that the reading public enjoys choice in purchasing books or borrowing books from public and institutional libraries. My view is that the rules exist then to benefit the reading public and to ensure the commercial health and cultural survival of the Australian book industry and all those employed within it. This includes publishers, editors, typesetters, booksellers, literary agents, printers, distributors and warehousemen.

I also note that there is considerable evidence that spending on reading materials and textbooks dramatically increase during economic downturns. Analysis of the 1990 – 1991 and 2000 – 2001 recessions in the United States revealed textbooks and reading materials at the highest level of consumer expenditures.(2) The Australian book industry has potential to be a strong industry during the current projected downturn and it seems unfathomable that changes to parallel importation can be considered at this time in order to allow cheap imports of books.

### ***Does or could (additional) government arts funding achieve similar outcomes, or serve as an alternative to the current parallel import restrictions?***

Benefits from the rules of parallel importation apply equally to all creators and publishers simply by being enshrined in law and requiring compliance. There is no action required, no process of assessment, no bureaucratic process to abide by as applies to grants and many other systems of arts funding. Restrictions such as that required by parallel import rules remain an equitable form of culturally benefiting all creators and publishers.

### ***To what extent is it important for Australian authors to have access to an Australian publisher in order to develop or promote their work?***

Australian fiction and non-fiction informs us about ourselves and illuminates, reviews and critiques our society and culture. I believe it should exist and for the benefit of Australians and those interested in Australia. There are very few examples of any non-Australian publishers choosing to publish Australian subject material, by known or unknown writers, in fiction or non fiction, historically (when there were almost no Australian publishers) or in contemporary times when there are considerably more.

I fully endorse the comments of authors Kate Grenville and Nick Earls in their excellent respective submissions of how authors both develop as authors and gain necessary commercial protection under the present rules. I would also highlight the almost complete absence of bargaining power by authors in negotiating royalties with publishers. A tiny group of authors with strong and existing markets will be in a position to negotiate fair royalties but a logical consequence of cheaper books for the consumer is publishers requiring reduced royalties as they manage tighter margins.

I note too under this heading that many imaginative and important manuscripts and proposals dealing with Australian subject material come to us at Federation Press. Most are rejected. This is rarely a reflection on their quality but more that our focus is on the legal and academic sector and our list is limited to around 50 books a year. The fact that we see so many of these proposals reflects the extreme limitations of non fiction publishing in Australia, there are simply too few options available to authors to publish intelligent and valuable books dealing with our history, culture and society.

I urge the Commission to retain the existing law on parallel importation of books.

Sincerely

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## References

1. Reynolds, R and Stoianoff, N Ch 5 “Balancing the Interests” **Intellectual Property** 3e, The Federation Press Sydney, 2008; see also Golvan, Colin Copyright Law and Practice, The Federation Press, Sydney 2007
2. “Industry trends in recessions” Chart Focus Newsletter, December 2008, The McKinsey Quarterly