

IPA Submission

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Parallel Importation of Books

Productivity Commission of the Government of Australia

Submission of the International Publishers Association

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The International Publishers Association (IPA) appreciates this opportunity to comment on the Productivity Commission Issues Paper on Copyright Restrictions on the Parallel Importation of Books (the “Issues Paper”).

IPA is the international federation of trade associations representing book and journal publishers worldwide. Established in Paris in 1896, IPA now counts more than 60 national, regional and specialised publishers associations from more than 50 countries - including the Australian Publishers Association - among its members, and therefore the great majority of publishing together generating world-wide sales of more than USD 88 billion (AUD 133 billion). IPA is an accredited non-governmental organisation enjoying observer status to United Nations organisations, including the World Intellectual Property Organisation (WIPO). IPA’s main goals are the promotion of literacy and reading, the development and protection of copyright, and the promotion of national book policies supporting publishing and related industries.

Our close contact with our members has enabled us to assess which book policy and copyright frameworks favour the development of local publishing industries, and which amendments may harm them.

IPA submits that the maintenance of the principle of copyright territoriality, in the special form that this protection has taken in Australia, has proven to support Australian publishing and the offer of local, relevant books to Australian readers, and that the removal of related import restrictions may harm the achievements of the Australian publishing industry over the past decades.

Executive Summary:

Publishing in Australia matters. It matters whether books can be produced and published locally. Books are building blocks of cultural heritage and, at home and abroad, purveyors of local values and diversity. Foreign works can complement but never replace, locally created books.

An important element of any sound economic and cultural policy must be the support and development of a local publishing industry that is able to:

- Develop local literature that reflects the values and diversity of Australian heritage, culture and national identity.
- Support the Australia’s sovereign educational curricula and Australian educational policies without being dependent on foreign educational curricula and constrictions.
- Support a successful sector of the knowledge economy with low barriers of entry, a large share of skilled employees, an important impact on the knowledge economy and a very small ecological impact.
- Strengthen an industry that can contribute to exports and promote Australia abroad.

Any short term –and disputed- gain of “cheaper” parallel imports will erode over time. Without territoriality international publishers will stop creating low price editions to be sold in developing countries, as these low price editions risk to be imported to – and hence harming - economically stronger markets.

Local publishing also needs territorial rights. Even the international publishing community, which would in theory benefit from parallel imports, recognises the importance of the maintenance and development of a local publishing industry that contributes to the growth of the local book culture and market, of which all benefit.

In this respect IPA supports the submission by our Australian member, the Australian Publishers Association, and commends it to your attention.

The principle of territoriality

The principle of territoriality is well established among national IP laws around the world.

For the vast majority it has proven beneficial, both for the consumer and for the publisher, to use territoriality to enable books to be offered less expensively in markets where the consumer can afford less, or where the cost of publishing is lower.

Whilst there is no obligation to maintain territoriality in international law, the principle is maintained in a vast majority of countries for patents, trademarks and copyright. The few international instruments that describe exceptions to this principle (such as the Doha Declaration in connection with Art 31 f of TRIPS) de facto underscore the prevalence of the principle of territoriality in itself.

Over time, some markets, such as parts of the academic journal market and parts of the scientific, technical and medical book publishing market, have developed into global markets, with a single price offered to customers anywhere in the world. In such cases the market and distribution infrastructure themselves have become global so that splitting rights according to territoriality makes no sense. In other markets, it has been customary to sell rights for a region or for a language, as those has proven practical ways of supplying readers. This in no way undermines the principle of territoriality but shows that market forces will regulate the development of regional and international sales and distribution infrastructure. There is no need for legislature to interfere and react to these changes.

Territoriality and the Australian Publishing Market

Statistics show that 60% of books purchased in Australia are Australian-originated — six times the proportion 50 years ago. Internationally, Australian education publishing has had marked success, for example in the area of literacy and numeracy where the Australian Curricula proved to be ahead of those in other countries.

Not only Australia, many other countries and regions have sought ways to strengthen their local publishing industry as a way of strengthening national identity. Examples include Canada, Scotland, Catalonia, Ireland, or South Africa. Such policies are supported by the international publishing community as the growth in local markets benefits the international publishing community as well.

In Latin America local publishers suffer greatly on occasions when Spanish publishers dump remainders onto local markets, effectively damaging the market for locally produced works. Indeed, IPA believes that the only credible prospect of price reduction through imports is actually dumping: non-Australian publishers/distributors can take the by-product of a large scale firm sale market, and resell it in a sale-or-return market like Australia, which cannot produce a competing sub-profit edition.

International Price Comparisons

International pricing comparisons are difficult to make. Comparisons often do not take into account different rates of VAT, existence of fixed price systems, costs of transport, or the benefits of scale in large markets with a dense, efficient distribution infrastructure. IPA draws your attention to the detailed critique of existing price comparisons that are part of the current debate.

There is one particular aspect which needs to be highlighted to show why such price comparisons are of very limited use.

Publishing is a business sector with low profit margins overall. Even if (and IPA would view such studies in the case of Australia extremely critically) a study should show that there is a cost benefit for the purchase of books from abroad, this would be a reflection of the different cost base. Local publishing supports the local book infrastructure as a whole. Parallel imports don't.

Where in fact books are published by local publishers at a price higher than those offered by parallel importers, this price reflects the larger economic investment made in the book by the local publisher. Such added value may include local marketing - perhaps even creating or stimulating the demand that parallel importers fulfil-, supporting the local distribution infrastructure, editorial and production work, review copies, taxation, staffing and other associated costs. Such costs are not mere expenses, but stimulate the local publishing and (book) economy and infrastructure. Local publishing gives something back to the local economy. Parallel imports weaken it.

A practical example is the costs of sales-or-return systems. Parallel imports only address a demand where it pre-exists. The vast majority of books in book shops are sold to impulse buyers. Hence it is important for books to be there at the consumers' fingertips when he browses a book shop. The sales-and-return mechanism enables more consumers to buy books they like, the bookseller can order them without risk and the publisher benefits from the impulse sales. Strengthening parallel imports weakens sales overall, as books become more difficult to find. The reduction of sales of books to consumers overall may be of less concern with mere consumer goods. As has been shown above, Australia, like any other country, has an interest in maintaining a large base of literary readers.

Benefits of Books for Civil Society

The Issues Paper asks the question whether books have a particular cultural value. Whilst this question is rather surprising, it is indeed at the heart of any

policy objectives in this field. It is therefore important to assess the value of the creation, dissemination, preservation and consumption of literary works as a policy objective. In IPA's view the importance of local books and the development of a broad and sustained book culture cannot be overestimated.

Herewith a quote from a recent US study¹ on the impact of books and literary reading on individuals and society:

The study "confirms—without any serious qualification—the central importance of reading for a prosperous, free society. The data here demonstrate that reading is an irreplaceable activity in developing productive and active adults as well as healthy communities. Whatever the benefits of newer electronic media, they provide no measurable substitute for the intellectual and personal development initiated and sustained by frequent reading."

Here a brief summary of why the Australian government should have a strong policy interest of promoting an Australian book culture and literary reading:

- Books create academic success: books and the early access to books, even before learning to read is scientifically proven to improve literacy, reading and numeracy skills.²
- Literary reading correlates to higher earnings.³
- Literary reading is strongly correlated to civic responsibility: There is a strong correlation between literary reading, through all social strata, and the likelihood of participating in cultural activities, even in being active in sports. Literary readers are also far more likely to engage in volunteering and charitable work.⁴
- Literary readers are more likely to vote.⁵
- Reading books is more beneficial than reading text on screen.⁶
- Books are ambassadors and can reflect the attitudes, values and diversity of a nation. Books by Australian writers are likely to include aspects that cannot be addressed in the same way by foreign authors. It is important to give one's own culture a cultural voice to join the international exchange⁷
- Australian writers have unique perspectives. Their values, the context in which they write relate more closely to the experience of Australian readers. In particular in education, and here most pertinently in primary and secondary education, it is important for comprehension and for the enjoyment of reading that the material is relevant to the context of the readers' lives. For example, Australian boys may enjoy far more reading a text about a famous Australian Cricketer than about a football star from the US.

¹ <http://www.nea.gov/research/ToRead.pdf>

² <http://www.bookstart.org.uk/documents/BSHardoutcomes0308.doc>

³ <http://www.nea.gov/research/ToRead.pdf> Page 17

⁴ <http://www.nea.gov/research/ToRead.pdf> Page 18

⁵ <http://www.nea.gov/research/ToRead.pdf> Page 19

⁶ <http://www.sciencedaily.com/releases/2008/12/081219073049.htm>

⁷ For a flavour of the international exchange in literature see <http://www.ou.edu/worldlit/>

Educational Sovereignty

There is an inherent value in maintaining a healthy independent local educational publishing industry. IPA and the international publishing community continuously educate policy makers particularly in the developing world, but also in industrialised countries, on the importance of developing a local educational publishing industry. The ability to maintain local curricula, and to cater for these curricula with textbooks created by skilled and competitive local publishers, is an important way to ensure that education can be customised in accordance with local needs. Local educational publishers can respond to changes in local curricula. Where the local educational publishing industry is not sustained, governments have no choice but to publish themselves. Countries with government publishing in education have lower quality textbooks, as books are developed without a broad skills base and the advantages of fierce free market competition to deliver innovative and engaging books.

Other ways of supporting Australian book producers

The Issues Paper asks whether other, more direct ways of supporting local publishing may not be better. Publishers are not asking for direct subsidies, but to be able to price books in accordance with their national cost base. The cost base reflects the local publishing costs and the local distribution and sales infrastructure. If Australia has a policy interest in maintaining high levels of reading it must make books readily available to all citizens, through libraries and book shops. Whilst there are other ways of supporting the book sector, publishers, authors and printers, few are as efficient as policy measures which allow a national market to function properly.

Furthermore, direct support for publishing and for authors can have direct implications for freedom of expression on the side of authors, freedom of choice on the side of consumers and freedom to publish on the side of entrepreneurial publishers. To avoid policy interfering with these important freedoms it is best for the Australian government to strengthen the Australian publishing market through indirect policy measures that allow market forces to develop within Australia.

IPA would like to thank the Australian government for the opportunity to express its views and hopes this document can help inform those who will make the relevant policy decisions.