

3 Apr 2009

TO: Productivity Commission
RE: Parallel Importation of Books Study

Cengage Learning Australia Pty Ltd (CLA) has a long history in publishing local textbooks, and student & teacher resource materials in Australia. CLA specific serves the Education market, with strong annual frontlist publishing for the primary, secondary and tertiary market segments and maintains a considerable title portfolio of backlist resources for each of these three market segments.

This submission is a follow up to our 9th Jan 2009 original submission to the Commission and is in response to the Productivity Commission Discussion Draft released in March.

In direct response to the Commission's request to highlight any areas we consider "the Commission has misinterpreted particular evidence or arguments...", there are two critically inaccurate contentions made by the Commission that are absolutely fundamental to understanding how the Education market in Australia operates.

The two fundamental misconceptions are the practical meaning of Frontlist and Backlist as it applies to Education publishing [glossary page xi], and the Commission's view that "whereas consumers have discretion over which trade books they read, [education] textbooks are typically prescribed, which makes them susceptible to monopolistic pricing practices by publishers". [last para of overview page xv]

We note that in our first submission we were concerned *that the current debate leading to the review by the Productivity Commission has been substantially centred on trade publishing and the desire of retail booksellers to improve their margins. The concern for CLA is that education books may get caught up in unintended (perhaps unappreciated) consequences for decisions taken that disturb the current status quo in relation to territorial copyright.* Unfortunately the March Discussion Draft has confirmed our worst fears. Hopefully this further submission provides detailed understanding of the important key differences between the education publishing sector and the broader book industry in Australia.

The education market sector does operate with some quite different characteristics to the rest of the book industry. Respectfully we believe this needs to be acknowledged and better appreciated by the Commission in the specific context of the Draft Discussion paper which recommends changes to PIR to apply uniformly across the entire publishing industry in Australia which is just not homogenous in the way it operates.

1. Understanding the sales implications of Frontlist and Backlist for the education market

The Commission's definition of *Back List* combines two elements – that titles have been on the market for over 12 months, **and** which are now generally sold in low volumes. The first element is correct and applies to Education equally as Trade. The second element is incorrect. Not occasionally or frequently wrong, it would be incorrect 99% of the time. The experience of the writers to this letter, each with over 10 years managing education publishing businesses, have

never, (not once), had a student book title that sold more units in its first year of release than for the remainder of its lifetime sales.

Across our considerable lists and over the last 10 years, the first year sales of a title can be as low as 10% of lifetime and as high as 40%. The average across our portfolios (both tertiary and secondary) is around 30% of sales in the first 12 months.

Reasons for this include:-

- Lecturers and teachers (key education institution decision maker for title adoption) usually want to “tyre-kick” the product before formal adopting it for their course/subject, leading to a staggering of adoptions across 24 months from release
- Lecturers and teachers often wait until a rival publisher’s product is available so they can compare before making an adoption decision (frustrating, but reflects reality)
- Lecturers and teachers often move employment to other education institutions and thus the opportunity to make new sales remains strong well past 12 months of title release
- Timing – many universities / schools may have adopted a particular book in the last 1-2 years and are conscious that students wish to resell through the second-hand market. They will wait until 3-4 years of using one title before they are generally open to changing to a different textbook resource
- Curriculums for any single school subject and university course do not change every year. Thus there remains a strong window of at least 3 years for tertiary and 5 or more years for secondary that a particular textbook has good sales currency. Education textbooks are bought for a single education purpose. They are not bought as a gift, or on a whim for reading enjoyment. The sales implications of education “back list” and “front list” titles are essentially *inversely related* to the sales characteristics of Trade front list and back list.

2. Debunking the concept of monopolistic pricing capability

The Commission makes an erroneous leap that because a textbook is typically *prescribed* that this confers some monopolistic pricing capability. This is nonsensical. Firstly for every single university course adoption and every single school booklist, there is substantial competition with a high number of competing texts by the publishers operating in tertiary and secondary. Monopolistic pricing and other powers will occur only *because* there is only one (in this situation) publisher / published title available for the course / subject.

Important to the understanding of the education market – every single university and every single secondary school (so around 3,000 combined) makes a separate textbook adoption decision. And they make a separate decision for every course and subject, and for every year of study.

To illustrate this point – there are around 88,000 students who undertake NSW Maths in year 7 secondary school (we have picked the largest single cohort). There are 8 excellent textbooks from competing publishers that fully cover the curriculum required to be taught by teachers in NSW schools and mandated by the NSW Board of Studies. There are around 900 secondary schools in NSW. 900 different decision makers fielding sales pitches from 8 publishers wanting them to adopt their textbook. And most schools buy class-sets, - thereby using one copy for more than one student each year and use the books for many years. All publishers get some sales and no publisher gets all the sales. But yes, the schools that do adopt their title means that the students that attend *that* school can only buy (if booklist) or use (if class-set) *that* textbook. Monopoly

pricing capability – no. And the total average annual revenue that has to be shared between 8 publishers from the market segment of Maths textbooks for NSW for year 7 generates is well under \$1.0m pa.

Hopefully the above example explains how both the tertiary and secondary education markets are made up of a 'honeycomb' of very small market sub-segments. Every institution, every course/subject, and every year level represents a completely separate sub-market that publishers create textbook resources for and compete in. There are a number of other points that enable the Commission to better understand the complete lack of any monopolistic activity:-

- Brand and imprint reputation is paramount. Long history shows that price rises across education have been CPI or less. Any attempt to raise prices on one title (where the Commission may have assumed there is some sort of monopolistic opportunity) would impact negatively on other titles in the portfolio. Overall imprint reputation is hard won and easily lost in cynical price gouging. Any review of the last 10 years of publically available price rises from all education publishers (which almost always occurs annually) will demonstrate that no such pricing advantage has ever been made, even assuming it was notionally available
- The second-hand market is very well organised, often operated by unis and schools as well as booksellers and student groups. It acts as a natural brake to any major upward change in retail pricing
- There is a constant threat that teachers and lecturers will change their adopted / booklisted / recommended textbook. Education institutions do not enter into fixed term contracts (custom publishing excluded) and are free to change their textbook at any time. Zero impediments to switching textbooks when there are many alternative texts available is incompatible with the concept of monopolistic pricing practice
- Curriculums and courses do change over time and when they do, notionally the relevant market sub-segment becomes a free-for-all again – but probably not for a publisher if they displayed a history of jacking up the textbook price in that subject / course!
- Not all textbooks, particularly in tertiary, are prescribed for every course at every university. More typically in the undergraduate and first year of a course, and less likely in the latter years of a course, and in those courses that require specialisation and use of materials from a range of sources, - indeed different opinions. In these common circumstances a textbook will be 'recommended reading' but definitely not mandated / prescribed

Conclusion:

We believe the Commission's key draft recommendation of 12 months for parallel import restriction has fundamentally been shaped by the assumption and belief that most of a title's lifetime unit sales occurs in the first 12 months from release. This is completely inaccurate for Education titles.

Further we believe the Commission has shallowly assumed that because many titles are 'prescribed', that publishers can and do make excellent profit margins through monopolistic pricing practices. Just not true. The competition is fierce, fragmented and constant, and the margins are modest.

In our opinion, the correction and acceptance of these two issues should lead the Commission to recast their draft recommendation. Proposing the restrictions on parallel imports to apply for only 12 months from the date of first publication *when applied to the Education publishing market* should not be made.

Hopefully this further submission assists the Commission to have a better and balanced understanding of the education book publishing industry within the overall Australian book publishing industry.

Yours sincerely
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