

SECOND SUBMISSION

**Response to
the Productivity Commission
Discussion Draft
and Melbourne Roundtable Discussion
on**

‘Restrictions on the Parallel Importation of Books’

Response
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At the Melbourne Roundtable Discussions on April 7th November, members of the Productivity Commission, publishers, printers, agents, authors and other interested parties met to examine the ramifications of removing PIRs or modifying them.

The issues discussed were:

- 1. The cultural story*
- 2. Price*
- 3. Competition Issues*
- 4. The possible consequences of introducing the 12 month rule.*

It is difficult to discuss these issues separately as many of them are interlinked. For this reason, I have based my report on the brief provided by the Productivity Commission with relevance to the issues that they were seeking feedback on.

This is my response to both the Productivity Commission Discussion Draft and the Melbourne roundtable discussions.

THE COMMISSION HAS NOT CAPTURED THE FULL SCOPE OF ARGUMENTS IN THE DISCUSSION DRAFT?

I'd like to start by saying that the Productivity Commission has paid scant attention to the Children's Book Industry in the Discussion Draft.

Even the statistics quoted in the online survey by Starcom on page 2.3, don't include anybody under the age of 16 – astonishing, given the size of the children's and YA market in Australia.

The whole basis for reform seems to be predicated on the assumption that removing or limiting restrictions on the Parallel Importation of Books will put downward pressure on pricing, and consequently provide consumers with cheaper books.

The Discussion Draft does not provide sufficient research to represent the reader's/consumers point of view – no real evidence was provided to prove that this is what the consumer wants. Apart from the odd submission by people like Linda Moody, there has been little or no feedback from the people these changes are supposed to benefit.

As Morris Gleitzman pointed out at the roundtable discussions in Melbourne, responses have not been sought from *major* book consumers like teachers and librarians to see if they are prepared to sacrifice culture, history and the damage to the Australian publishing industry – all for the sake of the possibility of cheaper books.

And as McPherson Printing, Penguin Publishing and others pointed out, removing Parallel Import restrictions won't necessarily lead to cheaper prices.

All roundtable delegates currently working as publishers, printers, literary agents and authors agreed that removing the restrictions would inevitably lead to loss of jobs and talent within the industry.

Publishers would be forced to produce fewer titles – meaning printers would also have reduced volumes of work. If the 12 month rule proposed by the Commission is brought in, this would also lead to fewer reprints. Printers have both fixed and variable costs involved in their business. Even if volumes declined, printers would still have to bear the same fixed costs and the only way to do this would be to put up the price of their printing in the short term – and possibly go out of business altogether in the long term.

This ramification has not been captured in the existing Discussion Draft.

The changes are being pushed through so fast and the issue is so complex for the average consumer that they need time to understand it and its complete ramifications. It's only in the last few weeks as they have begun to get their head around what's involved, that consumers (for the most part, teachers, librarians and parents) have started to approach me about the issue and express their concerns as readers and buyers of books that there will be a deterioration in the quality of reading materials available to them.

It seems to me that the Commission needs to take far more time to allow the issue to be properly researched and debated before coming to ANY conclusion.

THE ACCURACY OF THE GENERAL BASES FOR THE COMMISSION'S ANALYSIS AND RECOMMENDATIONS

The Commission's analysis and recommendations fail to take into account what consumers really want.

It is also quite contradictory in how it applies the meagre data that it does have.

1. What Consumers Really Want

The Commission centres most of its arguments for abolishing/reducing PRI's on the fact that:

1. It will lead to cheaper books.
2. Consumers want cheaper books. Some do – but most buying decisions for books are based on: subject matter, content and author

Clare McKenna, owner/manager of independent bookshop, Aesops Attic says,

*My experience with book sales is that customers **don't** purchase books based on price. Purchases of books are based on interest, author, topics, reviews and recommendations.*

For children's book purchases; reading level, age illustrations, author, series, topic, content and size of book all play a part in purchase. Advertising and reviews on radio and in newspapers has a much greater impact on sales than price does.

Purchase price rarely comes into play and only seems to be with pensioners, and when a book has to be posted as the postage has to be considered as part of the total cost of the purchase.

Even the Productivity Commission concedes this on page 2.1,

Most Australians read regularly and for various reasons. Hence, their book purchasing decisions are influenced by a range of factors additional to price.'

So why, is price the only issue that seems relevant to the Commission? Surely if other reader needs for cultural content, authors of their choice etc aren't met, then buyer demand for books in Australia will fall – and this will have ramifications for the economy and the industry.

2. Contradictions and inadequacies of data

On page 5.1, the Commission states,

As noted in chapter 4, to the extent that the Parallel Import Restrictions (PIRs) lead to higher priced books....

It also talks about the *price-raising effect of the PIRs.*

Then on page 7.12, it says,

First, given the uncertainty about the overall price raising impact of the PIRs...

If there is this uncertainty, why state it as a 'given' – and why not put off making any recommendations until the appropriate research has been undertaken so that they can be 'certain' about the 'overall price raising impact of the PIRs' – and that it won't completely decimate our industry?

On page 2.3, the Commission refers to a Starcom online survey that looked into the buying behaviour of *1200 readers aged between 16 and 65*. How in its numbers surveyed or terms of reference, is this representative of the reading population? It doesn't take into account anyone younger than 16 (so doesn't include children's books). And it also ignores people over the age of 65 – a large reading population. Furthermore, it excludes people who don't have online access or the skills or confidence to complete such a survey.

3. The New Zealand Experience

According to the Commission (page 5.5),

Other industries that have had their parallel import protection removed – the music industry in Australia and the book industry in New Zealand – do not appear to have suffered major detriment due to the removal of the PIRs.

I refer the Commission to the submission by The New Zealand Society of Authors (submission number 28) which states that a 2007 review by LECCG found that removing parallel importation restrictions had resulted in a slowing in industry growth and the withdrawing of distribution infrastructure in direct response to the market conditions.

In its submission to the Productivity Commission, The New Zealand Society of Authors (submission number 28) has stated,

It is clear from this September 2007 Review that a detrimental effect on the publishing industry has been experienced since the introduction of Parallel Importing in NZ.

According to a NZ Trade and Enterprise's 2004 report *New Zealand Book Publishing Industry Development Issues*, 'New Zealand publishers face an inherent problem in that the domestic market is swamped by imports.' New Zealand Publishers listed the 'dumping of children's books' as a major issue.

After taking these reports into account, on what basis does the Productivity Commission maintain that:

...the book industry in New Zealand – do not appear to have suffered major detriment due to the removal of the PIRs.

At the roundtable discussions, many publishers attested to the fact that prices of books in New Zealand have not dropped as a result of the removal of PIRs, and in fact, many publishers have closed their doors.

WHAT OTHER CONSIDERATIONS ARE RELEVANT?

1. The fact that consumer choice will actually be more limited.

In spite of the fact that the Productivity Commission refers in Box 3.4 (page 4.18) to the fact that consumers could save a lot of money through remaindered books being sold in Australia, the Attorney-General's Department expressed concerns on this same issue in its fact sheet produced in 2000 on *Copyright Reform: Parallel Importation of Books and Other Published Works*. The fact sheet stated that:

Books are generally 'remaindered' because they have not met with consumer acceptance.

The fact sheet goes on to say that *they are not what people want to buy...*

So in reality, consumer choice may be restricted by the bookseller's idea of what will make them the most money.

2. Failure to take into account the higher cost incurred by the Australian publisher to produce the local edition which is then replicated by overseas publishers.

On page 4.3 the Commission states,

But when shielded from this potential source of direct competition, a publisher can charge booksellers a price which is above the cost of an equivalent foreign edition, certain in the knowledge that it cannot be undercut by such an edition.

This statement fails to take into account the fact that the Australian publisher has every right/need to charge a higher price because they have made the initial investment in the author and their book – they have put in the initial work of producing the book – the editing, research, fact checking process etc as outlined below:

Information supplied by Walker Books Australia regarding the editing and production of <i>Letters to Leonardo</i>			
TASK	TIME SPENT	TOTAL HOURS	TOTAL WORKING DAYS
EDITING <i>This has involved three editors and the publisher. These hours include time for:</i> <ul style="list-style-type: none"> ▪ reading ▪ discussion ▪ marking up manuscript ▪ writing reports ▪ fact checking ▪ phone conferences ▪ half day meeting with the author 			
First structural edit and report	17 hours		
Second structural edit and report	30 hours		
Copy edit	24 hours		
Proof reading (3 readers)	27 hours	98 hours	13.1 working days
PRODUCTION			
Cover & internal design, writing of copy and typesetting	45 hours	45 hours	6 working days

This doesn't include a similar amount of time spent by the Publisher to market me as a new author.

By the time/if my book *Letters to Leonardo* is published overseas, all the hard work will already have been done by my Australian Publisher at their expense. So if Australian books are to be written, edited and published to the highest standard, it is logical to expect that the Australian Publisher would have to charge more in order to recoup these costs.

HAS THE COMMISSION CORRECTLY CAPTURED (IN CHAPTER 5) THE KEY WAYS IN WHICH THE INDUSTRY IS AFFECTED BY THE PIRs AND MIGHT CHANGE IF THEY WERE REFORMED?

I refer to the Commission's section on Remainders.

It states on page 4.17:

To the extent that the bulk of sales tend to occur in the initial period after the release of a book, the amount of pressure that remaindered editions could place on prices in Australia would be limited.

This fails to take into account the interests of new authors who may take over 12 months to become a known presence in the marketplace, and also any award winners – who may see most of their sales occur following a CBCA short listing – which could come more than 12 months after publication.

Both publishers and authors present at the Melbourne roundtable agreed that a publisher invests in an author for the long haul, and it may take years for either party to reap the rewards of their books. It is quite common for books to be reprinted when the author's new book comes out – and this is often more than twelve months after the original was published.

Particularly with children's picture books, authors/publishers rely on the longer-term sales to cover costs of books. Removing PIRs takes away the ability for picture books to recoup costs - which will have major repercussions for the children's publishing and education sectors as picture books are vital particularly in junior classrooms.

ARE THERE ANY OTHER LIKELY EFFECTS OF REFORM THAT ARE PERTINENT?

Disadvantage to independent booksellers

On page 4.3, the Commission states that:

In the absence of PIRs, local booksellers or buying groups could source legally produced foreign editions of that title from whichever international supplier had the lowest cost or best value-for-money edition.

Independent booksellers however would not have the buying power to take advantage of this, and consequently would be even further disadvantaged.

Authors are big book buyers

Another thing the Commission states (page 4.18) that:

Australian authors typically receive 10 per cent of the RRP of books sold in Australia. Thus, were the book in the example cited by Spinifex Press an Australian-authored book being sold at its RRP, the importance and sale of the remaindered foreign edition would result in a loss in royalties to the Australian author of around \$2.50 – assuming that the sale displaced another sale of the work. (In comparison, the Australian consumer in that example would save over \$20 – that is, the consumer would need to pay only the small price (\$3 in the Spinifex example) for the parallel import, rather than the \$24.95 price of the Australian edition).

This report is clearly about consumer welfare, and not author welfare, but it fails to take into account the fact that authors are big buyers of books, and if they are paid no royalties instead of \$2.49 (10% of \$24.95) per sale, then they will no longer be able to afford to buy books by other authors in the quantities they had been.

WHAT LOCAL ADVANTAGES DOES THE BOOK INDUSTRY HAVE THAT WOULD REMAIN IF THE COMMISSION'S RECOMMENDATIONS WERE IMPLEMENTED?

Publishers still couldn't afford to take the risk on new authors because of the amount of time and effort invested in them. (refer table of information supplied by Walker Books earlier in this submission)

As a new author, it will take me a lot longer than 12 months to get a presence out in the reader's marketplace, and this is what I'm doing to make that happen

16 th May – SCBWI talk	Talk about the writing process involved in my book
End of May	Talk to librarians at <i>Reading Matters Conference</i> in Melbourne
1 st July	Book release
1 st July	Cyber launch
4 th July	Melbourne Book launch
24 th June to 7 th July	Blog Tour
7 th August	Byron Bay Writer's festival – possible workshop
12 th September	Queensland launch at CYA conference.
February 2010	Attend SCBWI conference in Sydney
1 st July 2008-2009	Bookshop signings and appearances

Hopefully, in 18 to 24 months time, my second book may be due out, and I will have some market presence – and this might lead people to go back and buy my first book.

ARE THERE SECTORS THAT WOULD BE PARTICULARLY AFFECTED OR UNAFFECTED?

PUBLISHERS AND WRITERS

As the Australian Publishers indicated on page 5.5 of the report:

In this environment, publishers will change their strategy, with some 40% indicating that they would need to reduce their annual output of new Australian titles...

This would lead to fewer opportunities for local authors, and some smaller publishers may go out of business all together.

It would also make surviving publishers less likely to take risks with new authors like me.

Furthermore, when the Commission refers to Psychic Income on page 2.11 of its report, it cannot substantiate its assertion that authors may keep generating manuscripts anyway, just for the 'joy of self-expression'. I am in a strong network of new/emerging/established children's authors; many of whom are women with children. If opportunities for publication are further reduced, these authors will be forced into full time work in other occupations simply because 'psychic income' does not put food on the table or pay for our children to go to school.

As the Commission states on page 3.1, The Australian government currently supports the books sector through grants and literary prizes, but only a very small % of writers ever gets the benefit of them. The rest must rely totally on getting their work published and sold.

INDEPENDENT BOOKSELLERS

As mentioned earlier, independent booksellers would not have the buying power to take advantage of cheaper overseas books – especially bearing in mind freight costs etc.

PRINTERS

As outlined in the Commission's report, this could lead to job losses in this area, and printers eventually being forced to close their doors.

EDUCATORS & PARENTS

In recent months, many teachers have expressed their concern to me that removing Parallel Import restrictions will force Australian publishers to focus on a more global market, and this will reduce the number of books that speak authentically to young readers in our country.

Parents have expressed literacy concerns – that if the books produced in our country are not relevant to how they live, their kids will be more reluctant to read them. Parents also worry about the loss of future career opportunities for talented children who wish to work with words.

The issue of relevance for readers and the need for local cultural content was also raised by Morris Gleitzman at the Melbourne roundtable discussions – and his concern was for the young readers in this country - the people he writes for.

READERS

As outlined previously in this submission, there is no evidence to support that books will become cheaper or that any cost savings achieved by booksellers will be passed on. According to industry experts, removing Parallel Import Restrictions could even lead to an increase in prices.

Furthermore, it seems likely that consumer choice will actually be more limited when it comes to buying books.

HOW IN PRACTICE, WOULD THE INDUSTRY RESPOND TO IMPLEMENTATION OF THE RECOMMENDATIONS?

- Publishers have already indicated they would be forced to produce less Australian books.
- Publishers would not be prepared to take the same risks with new authors and innovations.
- Authors would BUY less books because they would have less disposable income.
- Authors and publishers would pursue alternative careers and their talents would be lost to the industry forever.
- New authors like me would have even less chance of having their work published. Publishers would be less likely to have my book reprinted – and if restrictions were placed on the amount of time they had to recoup the money they had invested in me, they may be reluctant to publish further works until sales have been proven.

- Booksellers may be able to buy books more cheaply, but there is no guarantee that this will be passed on to the consumer. (When 30% sales tax was replaced by 10%GST, how many retailers passed the savings on to their customers?)
- Nobody disputes that shelf space in bookshops and department stores is limited. Because they make their stocking decisions based on what will earn them the most profit; not what consumers want, bookselling chains and bulk buyers may **force consumers to go on-line** rather than buying from bookshops. They will prefer to stock large quantities of cheap quick profit books rather than quality Australian literature, and buyers may be forced to go on-line to get the books they want.
- Already, major book chains only stock minimal quantities of Australian authors
- In the long term, publishers with overseas head offices may find that their unprotected Australian branches are no longer as profitable. Accountants, who are not interested in culture, history or literature, may follow the example of companies like Pacific Dunlop, and ship all their Australian interests overseas for the sake of 'the bottom line'. This will not only mean a great loss of jobs and talent in the local industry, it could ultimately lead to higher prices paid for books in Australia due to lack of competitive forces in the local market.

WOULD THERE BE ANY PRACTICAL DIFFICULTIES WITH THE REFORMS?

- Ensuring discounts were passed on to consumers.
- Monitoring to ensure that booksellers waited the required 12 months before importing overseas editions of the book.

GIVEN THE DISCUSSION IN CHAPTER 7, IF THE PIRS ARE TO BE REFORMED, ARE THERE ARGUMENTS FOR ALTERNATIVE APPROACHES?

Even the Productivity Commission concedes (page 7.12) that there is *uncertainty about the overall price raising impact of the PIRs*.

The Commission also recommends that the outdated 5/6 year-old research into the book industry be updated – that the Australian Bureau of Statistics should undertake a review as soon as possible.

A manufacturer intending to produce a new technology does not do so until it has measured the needs of its potential market and how best to proceed. It conducts its research before taking action.

It seems to me that doing comprehensive research involving **ALL** relevant stakeholders is the logical step to take before any recommendations are implemented or even considered that will change the existing position on PIRs.

This will allow us to more accurately assess the impact on the industry before the damage has been done and it's too late to turn back.

CONCLUSION

Even if the facts didn't show that removing PRI's would do irreparable damage to literature and literacy in this country, I don't believe the Commission has sufficient data/information at its disposal to make *any* changes to the current legislation on Parallel Importation of Books.

Furthermore, the Commission has not proven that under the proposed changes to the copyright laws:

- books will become cheaper;
- that the representation of Australian culture in future books won't be irreparably damaged;
- that any price savings made will be passed on to the consumer;
- that any economic benefits gained from downwards pressure on book prices won't be offset by the costs of loss of jobs and income for publishers, printers, authors, booksellers and literary agents;
- That talents lost due to contraction of the industry can ever be recovered;
- that book prices won't increase because of the changes;
- That the decimation of the publishing industry in New Zealand brought about by the removal of Parallel Import Restrictions won't apply here;
- That future generations will be able to earn their living as Australian authors and publishers;
- That consumers actually want this change.

As the Commission states on pages 2.1 & 2.3,

The books sector is of considerable importance to the Australian economy and community. Sales of new books are currently around \$2.5 billion a year, providing an income and an outlet for the work of several thousand authors and supporting the activity and employment of publishers, printers and book retailers....

So why in a climate of 'Global Financial Crisis', is the government even considering putting these things at risk?

The Commission goes on to say,

Moreover, as well as being sources of information and entertainment, books can be tools of earning or learning, repositories of history or even markers of cultural identity. And reading books improves literacy, which is fundamental to individual well-being and to the smooth functioning of society and the economy.

To me, this begs the question, why is anyone even considering tampering with an industry that obviously has so much to offer the consumer in its present form?