

Leading Edge Books Second Productivity Commission Submission – Parallel Importation of Books Study

Organisation: Leading Edge Books – a buying group of over 180 Australian independent booksellers

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This second submission to the Productivity Commission on the Parallel Importation of Books in Australia is presented by Leading Edge Books – an organisation with a membership of 185 independent booksellers across Australia – and should be read in conjunction with our original submission.

Executive Summary

After reviewing and considering the Discussion Draft prepared by the Productivity Commission on the Restrictions on the Parallel Importation of Books our position remains unchanged.

Leading Edge Books submits that legislative change introduced in 1991 underpinned the growth of the Australian book industry by establishing a healthy and desirable level of security and accountability for both booksellers and publishers. Leading Edge Books advocates modification to the existing legislation, namely the shortening of the 90 day rule to 30 days, to further improve the flexibility and responsiveness of the industry to contemporary consumer and bookseller expectations regarding timeliness of supply. Leading Edge Books also advocates the urgent commissioning of quantitative research profiling all aspects of the Australian book industry. Leading Edge Books does not advocate or support the introduction of legislative change which would open up the market to parallel importation.

Further, it is our submission that the legislative change proposed by the Productivity Commission in their Discussion Draft, namely opening any book to parallel importation 12 months after publication, is unlikely to have the overall effect of reducing book prices and benefiting consumers in Australia. It is also our contention that such legislative change would do harm by causing the contraction of the Australian book industry resulting in lost jobs and lost net value to the domestic economy. Specifically, it is of particular concern to us that Commission has not given appropriate weight to the potential costs to the economy and to Australian culture of their predicted contraction of the independent bookselling sector.

Leading Edge Books applauds the Commission's finding that there is "insufficient data to fully describe and analyse the books market," that "information gaps and uncertainties suggest the need for a cautious approach to reform in this area," and that the "abolition of the restrictions at this juncture would not, in the Commission's view, be prudent." We urge the Commission to recognise that their legislative proposal would, in fact, constitute radical change and to urgently reconsider the more moderate propositions for change presented by Leading Edge Books and the majority of other submitters.

Pricing Comparisons

The submission originally presented by Leading Edge Books with regards to pricing stands unchanged. It is our contention that the retention of territorial copyright *does not* cause the Australian consumer to pay a higher price for books. Examples presented in our original submission demonstrate this point on both frontlist and backlist (ie.

books over 12 months old) featuring in the top 20 titles sold by a core sample of independent (Leading Edge) book stores in late November 2008.

We would also urge the Commission to give maximum weight to its own finding that when assessing its own price comparisons between markets "caution is needed in interpreting the results". Differences in format and production values, fluctuations in the exchange rate, GST and variations in freight costs (an unavoidable reality) *do* play a material and significant part in determining the ultimate price to the Australian consumer and its relativity to the price paid by consumers in other markets. It is our contention, after reviewing the Commission's pricing comparisons with all their attendant qualifications, that the Australian consumer is generally well served with fair prices within the existing legislative environment.

Backlist vs Frontlist

The pivotal recommendation of the Productivity Commission is that PIR protection should only apply for 12 months from the date of first publication of a book in Australia.

Leading Edge Books strongly submits that it is a fundamental misconception to believe that backlist and frontlist can be divorced from each other in this arbitrary manner and that legislative change in backlist will have a less significant impact on the cultural externalities of books in Australia.

This assumption:

- shows a misunderstanding of the management (by both publishers and booksellers) of authors as "brands", developed over time (ie. the perceived value of an author's body of work changes over time as they publish more books, develop a readership and gain profile, and it is this long term development which motivates investment from all interested parties);
- ignores the evidence of books whose peak or greatest volume of sales comes long after 12 months (eg. *Eat Pray Love*, *The Devil Wears Prada*, *The Hungry Caterpillar*, *Off the Shelf*);
- demonstrates a false assumption that because the majority of individual backlist titles are sold in small volumes then the total volume of sales of backlist titles is insignificant;
- assumes less cultural benefit in backlist than frontlist (ie. ignores examples like Tim Winton, Sally Morgan, Mem Fox et al where the cultural impact of their work has accrued over considerable time).

It is our contention that the proposed legislative change, while attempting to tweak a sector of the industry mistakenly believed to be minor, would in fact have largely the same impact as if the restrictions had been abolished in full. In light of the Commission's assertion of the need for caution, the radical legislative change proposed would seem dangerous if not irresponsible.

Impacts of Proposed Legislative Reform

Leading Edge Books contends that the legislative reform proposed by the Productivity Commission in its Discussion Draft would have an immediate and negative impact on the book industry in Australia. It is our assertion that the resulting radical change in the book industry would deliver no real benefit to the Australian consumer or the Australian economy, and, in fact, have the potential to cause quite the reverse effect.

With a legislative shift which creates an open market 12 months after the publication of any book we contend that Australian publishers would:

- consolidate and contract immediately (including reducing staff numbers), radically reducing stock holdings and proceeding very cautiously into the acquisition and development of new books and authors (ie. immediate and significant reduction in the scale of publisher/distributor operations and concomitant reduction in their capacity to service book retailers and, in turn, consumers);
- push prices up on new books to ensure maximum return within the limited time available to them (particularly on trade paperback fiction formats and Australian authored books not available from off shore sources);
- move to Firm Sale terms across all titles in order to minimise risk, particularly on new titles where they would otherwise be exposed to the risk of stock being returned at the end of 12 months;
- curtail or cut marketing and promotional spending, with greater emphasis on driving individual frontlist titles and little or no investment in maintaining and reworking supporting backlist and range.

These changes to the practices of the Australian publishing industry would have the following effects:

- less and less range will be available to consumers either on the shelves of local bookshops, or on demand within

an acceptable (and competitive) time frame;

- retailers would have no option but to source the majority of backlist stock off shore resulting in a loss of income to the Australian domestic economy;
- fewer and fewer new Australian authors will be signed to local publishers and represented in Australian bookshops, causing a significant shift in balance in the content of books available to Australian consumers;
- publishers will place ever greater emphasis on publishing in the mass market end of the spectrum and less in the more risky “literary” end of the spectrum, compromising the consumer’s choices and their opportunities to engage with their culture in myriad complex ways;
- Australian books will become increasingly expensive as publishers reduce print runs and seek to gain a return on investment wholly from within the Australian market (in lieu of income lost in deferred international rights sales);
- retailers would support fewer new titles in significant volume because of the risk involved in carrying Firm Sale stock at a higher price, thus reducing choice for consumers and reducing dollar value income within the Australian domestic economy;
- reduced opportunities for consumers to enjoy the benefits of added value in the form of author tours, reading group notes, gifts with purchase, special edition backlist reissues etc.

It is also our submission that, in real terms, it is not in any way certain that the proposed legislative changes will deliver reduced prices to consumers on backlist.

Significant questions around the costs of international freight and distribution in an open market have not been addressed in the Commission’s Draft Report and it is by no means clear that real opportunities will exist for retailers to be able to exploit cheaper cost prices for “commercial quantities” of books in alternative markets in such a way as to deliver real price reductions to their customers. If freight costs are no longer carried by a local publisher / distributor they must be carried by the retailer, or passed on through a third party wholesaler. These costs, which are significant for delivery into a country at a considerable distance from other markets, must, in turn, be passed on to the consumer. This, taken together with variations in the exchange rate and the obligatory addition of GST, call into question the possibility that the proposed legislative changes will ensure cheaper prices for consumers on backlist.

Independent Booksellers

One of the outcomes of legislative change predicted by the Commission in their Discussion Draft is a shift in market share between the different retail channels in Australia which would see larger stores expanding “but independent booksellers potentially contracting.” This predicted change is posited by the Commission as a net effect of removing the PIRs altogether. Leading Edge Books agrees that such legislative change would compromise and marginalise independent booksellers through all of the negative changes to publisher practice outlined above and through the amplified exclusion of independent booksellers from the opportunities for large scale purchase and terms negotiation open to exploitation by larger retailers.

It is the contention of Leading Edge Books that the legislative change proposed would potentially have the same consequences. Further, it is our contention that the contraction (ie. the closure) of independent booksellers in Australia would come at a significant cost to the domestic economy and to Australian culture. We assert that this is a real cost which we do not believe can be offset by the unproven benefits that might be available to consumers in the way of cheaper prices for some books.

The 185 independent bookshops that make up the membership of Leading Edge Books are small and medium businesses situated in centres large and small across Australia who actively contribute to the economies of their local communities. Within those communities they are employers, lease holders, rate payers, advertisers and sponsors. According to the 2003-2004 ABS Book Industry Retail Study independent booksellers, including all of these businesses, account for approximately 20% of the balance of sales of books in Australia. If, as the Commission estimates, the total industry turns over \$2.5 billion per annum, then independent booksellers are worth approximately \$500 million, a not insignificant contribution to the Australian domestic economy. Leading Edge Books urges the Commission to consider the negative impact for Australian communities of the contraction of that contribution (through lost jobs and the loss of local business-to-business spending) should those booksellers be forced out of business.

It is also true that independent booksellers play a particularly valuable role in the Australian market in that they are key players in introducing consumers to new or developing authors. Independent booksellers regularly punch above their weight in the market share achieved for key books – numerous examples can be cited for a market share of 30% or greater (eg. Tim Winton’s *Breath*, Geraldine Brooks’ *People of the Book* etc). Because they are particularly well set up to enable consumers to explore, discover and accept recommendations independent booksellers play an essential role in launching new authors and building others through to new levels of success.

Again, numerous examples can be cited of independent booksellers being responsible for breaking authors later picked up and driven to success by retailers in other parts of the market. Leading Edge Books asks the Commission to consider the cultural cost to the Australian consumer if these champions of new work were to be removed from the market.

Further, the diversity of booksellers within the independent retail bookselling sector currently serves the Australian consumer very well in offering a diverse range of books. Independent booksellers, more than any other, have the flexibility and capacity to mirror the particular needs and interests of their community, whether that be a specialist interest group or a rural centre. It is our contention that if this sector is forced to contract, so too will the diversity of books available to the Australian consumer.

Another of the unquantifiable cultural benefits currently delivered to consumers through independent booksellers which is at risk under the proposed legislative change is the added value that those booksellers deliver as a core part of their business offering. As publishers reduce their investment in marketing and promotion independent booksellers will be severely compromised in their ability to offer their customers the author events, gifts with purchase, reading group material etc. that expand and enhance the reading experience and add considerable value to purchase price. Writers' festivals in particular, consistently supported by independent booksellers more than any others, and enjoyed by many hundreds of consumers all over Australia, would be threatened.

Probably of greatest concern to Leading Edge Books is the potential contraction of the Australian publishing programme. Australian books consistently make up 50% or more of the top 50 titles being sold through independent retailers, compared with 20% or less among the top 50 titles being sold by retailers in other parts of the market. As publishers contract the breadth and depth of their local publishing programmes we contend that Australian consumers will be denied the opportunity to explore their culture in the myriad ways which they currently enjoy, to the detriment of the culture as a whole.

As a point of reference, Leading Edge Books points to the US and UK book markets where an ever greater emphasis on publishing and pricing for the discount and supermarket end of the books market has seen the spiraling collapse of the independent sector as more and more independent booksellers have been forced to close. We would seriously question whether this is a sustainable publishing model which best serves the consumer. In the UK one major book wholesaler and their primary retail partner has recently collapsed. In the US one of the major retail chains is said to be foundering and is currently propped up by publishers who fear the ramifications of its demise. With a marginalised independent sector to fall back on these markets would now seem to be placed in a vulnerable position.

Leading Edge Books urges the Commission to consider the cost-benefit equation that might be drawn around the likely contraction of the independent bookselling sector in Australia in the wake of the proposed legislative change and the significant cultural and economic implications that would be associated with it.

Conclusion

Leading Edge Books congratulates the Productivity Commission for its comprehensive analysis of the complexities of the book industry in Australia and for its appreciation of the critical role that books play in the cultural profile of this country – their “considerable cultural value”. We wholeheartedly endorse the Commission's move to pursue the option of liberalising the existing legislative restrictions, rather than abolishing them in total.

We applaud the Commission's recognition that the 90 day resupply rule has become outdated and has been overtaken by changes in technology, transportation and the global competitive (online) environment. To this end Leading Edge Books continues to advocate for the shortening of the existing 7/90 day rule to a 30 day provision.

We also applaud the Commission's finding that the dearth of up-to-date industry analysis leaves room for a great deal of uncertainty about the ramifications of radical legislative change. It is our assertion that quantitative research should be a primary focus for immediate action. Such research will shed light on all aspects of the book industry, particularly the ways in which the industry, and its parts, contributes to the domestic economy in real terms. Any major reform should only proceed after conclusive evidence as to the potential costs and benefits to the consumer and to the domestic economy are brought to bear.

Given the Commission's acknowledgement that the Australian book industry is thriving under the current legislation and that radical change would take a considerable time to repair Leading Edge Books urges the Commission to adhere to its own recommendation to proceed into legislative change with extreme caution.

We assert that the proposed legislative reform does, in fact, constitute radical change; that there is no guarantee that it would deliver cheaper books to the Australian consumer overall and may in fact have the reverse effect; and that the likely resulting contraction in the Australian book industry would mean the closure of businesses, the loss of jobs and a loss of income to the Australian domestic economy as well as having a significant and detrimental impact on the cultural externalities associated with Australian publishing and currently enjoyed by Australian consumers.

Legislative change introduced now will accompany the book industry into a future which will include significant adjustment and realignment for shifts in the digital environment and the global marketplace. We ask the Commission to consider what the real long term costs of radical legislative change might be for the Australian consumer and for the Australian domestic economy and whether that price is truly worth paying.