Whose vibrant publishing industry?

A submission supporting proposed changes to Australia's

Copyright Restrictions on the Parallel Importation of Books

Introduction

The Productivity Commission (PC) Inquiry into Copyright Restrictions on the Parallel Importation of Books (PIR's) has heard a lot from successful writers, agents, publishers and book industry bodies about Australian publishing, Australian books, and Australia's literary culture in general.

Their story of Australian Letters is a cracking good, if predictable, read.

Tim Winton calls it a 'distinct and vibrant entity', Kate Grenville 'healthy, vibrant and world-class'. Kids' author Libby Gleeson prefers 'vibrant', fantasy best-seller Garth Nix adds that it's 'thriving *and* vibrant', while to crime writer Peter Temple it's worth a triple-barrel blast of adjectives: 'vibrant, efficient *and* entrepreneurial'. Henry Rosenbloom of Scribe Publications ('vibrant') agrees with Jenny Darling Literary Agency ('flourishing and vibrant') echoes Penguin Australia ('strong and

vibrant'). Only briefly do the splitters of the Australian Literary Agents

Association tinker with dissent - 'lively', 'efficient', 'nimble' - before settling on the party line ('robust and vibrant'), while the double-name snoots of HarperCollins stay true to the duplicate form: not only do we boast a 'vibrant and highly-competitive bookselling environment', they assure the PC; Australia's 'local publishing business' is...'vibrant', too.

And so it goes, as The Bob might say. And probably will – he's got another newbie out soon, I hear. I bet it's…well, vibrant.

If any of us ever had any doubts about how to describe the 'unique Australian literary voice' in a nutshell, I should think we can all safely lay them to rest. Any more collective good vibrations and our writers, publishers, agents and booksellers will be in grave danger of dying of self-pleasure.

Aim of this submission

The aim of this submission, apart from simply those of being a bit smart-arsed and perhaps lightening things up a tad, is to present some arguments in support of the proposed changes to PIR's contained in the PC draft research paper of March. I think the draft changes represent a sensible and timely means by which to firmly

but fairly encourage relevant sectors to begin to adapt to the changing imperatives of publishing generally.

Submission author

Like many who have defended existing arrangements I am also a writer, although I arguably better represent the majority in Australia than someone like Tim Winton or Kate Grenville: I am a failed and failing one.

I've written four unpublished novels, several un-produced plays, any number of scratchy, formative short stories, scripts, poems, fragments, screeds, blog rants and over-written letters to editors signed 'Outraged of Balmain'. I was a contributor and MS editor for the journalist Margo Kingston's political bestseller '*Not Happy John!*' in 2004, and the 2007 re-issue. Along the way I've written and helped manage a number of professional, semi-professional and amateur websites.

So like many a would-be I've skirted the fringes of Australian letters for long years, working bitsy day gigs, being supported by my partner, having occasional wins with odd-job writing, freelance proofing, newspaper and magazine articles, while generally being a 'not quite' and maybe soon a 'never will be'. You pro's know us types. We're the ones who hang about Writer's Centres doing volunteer work, ask the Very Earnest and Well-Informed Questions from the floor at festival

forums, subscribe dutifully to all the little mags, and – as in this Inquiry – man the barricades behind you Name writers when the literary chips are down. Most of us, anyway.

What we generally haven't got the hang of is making a living from our words. It doesn't mean we love writing any less than your lot.

Mind you, Commissioners certainly should factor into their consideration of my submission the mournful truth that we failed writers are *also* usually fizzing with resentments and jealousies and nursing bruised egos. We are also all (of course) the cruelly-ignored victims of Philistine cretins in leather-elbowed tweed jackets who are too busy getting skinned on cheap claret at publishing junkets to recognize our manifest towering genius. As such, as a matter of vocational principle, no failed writer ever lets a chance to bitch about Publishing Inc go by.

We have our Guild too, y'know.

And *on the other hand*, I genuinely think it might be useful for the PC and current industry incumbents to remember that Australia's 'literary culture' isn't a closed shop defined and policed by ticketed insiders. More importantly, perhaps only a failed and failing writer can point our bookish nuddy emperors rudely in the

direction of the looming storm. Bluntly: if you guys don't start to confront the massive epistemological and technological changes facing hard copy publishing soon – the way journalism is at least trying to do so – then you are going to end up, like the once-flourishing Scroll Industry, being done out of a role in the future money-for-words game altogether.

Consumer arguments

To date those few submissions that have backed change to PIR's have done so on the consumer grounds of mere book price and availability. Frankly I think that supporters of PIR's have pretty much demolished these arguments. They've shown convincingly that there's no guarantee that lifting PIR's will change book prices much. They've shown that no-one in Australia is unable to get hold of any book they really want. They point out that books aren't price-sensitive: that no-one who has decided to buy a book already is swayed either way by it costing a few bucks more or less.

It's just not an 'issue' - no matter how hard the Coalition For Cheaper Books and Bob 'Nobel' Carr try to make it so.

Come on, everyone, we all know that these arguments are a bit Parson's Eggy at best. Enough daft touting for what you well know is an iffy riff. Supporters of change would do better focusing on how easing PIR's *can* help writers and publishers, rather than consumers - *maybe*. All this punter-patronising stuff about price and availability and 'cheaper books from mill for t'poorer homes and kiddies' guff is a distraction from the main game.

The real arguments for lifting PIR's are on the producer side. They are about, firstly, encouraging and kicking off the process by which the industry meets head-on the major challenges underway as a result of the digitalization of word-copy generally, and internet publishing and digital books specifically.

And second, giving Australian Letters a bit of a kick up the bum and urging 'it' – as a 'vibrant' abstract entity - to start paying bloody attention, as any sustainable industry must, to market signals.

This Inquiry is a great opportunity in my view for Australian publishers to have a long hard think about readers and readership, print runs, numbers of publishers and numbers of books they churn out, the size of the industry generally and whether it really *is* meeting Australia's huge demand for a simple good old read –

much less all those lovely 'cultural and artistic' higher needs you've been waffling so eloquently about.

Australian publishing: a dissenting view

A viable book industry must sell books

At the heart of this issue are unsold books. That means: writers/publishers who aren't producing books that readers want to read enough to buy them.

Writers are worried that such books 'flooding' home from overseas will undercut local royalty incomes. Publishers are worried that such books 'pouring in' from international remainder warehouses will make it harder for them to reduce their own warehouses of such books at home. Independent booksellers are worried that such books sluiced about by careless big chain distributors and mass producers trying to offload surplus will spoil their own modest chances of shifting the smaller such piles in their bookshop corner. Agents, especially, are poo-ing coconuts that lifting PIR's – exposing local markets to unsold overseas runs – might make it more problematic for them (over the long-term) to keep cutting the tenuous 'fire-and-forget' international rights deals that increasingly tend to create such books in the first place.

Could it be that PIR's exist largely to make it easier for the industry to 'overpublish' the same book in multiple markets, wringing three, four, five advances, three, four, five commissions, plus more industry churn, PR, profile schmoozing and 'trade activity', out of the same batch of words regardless of how many more edition-copies get sold in any given market?

OK, if that's a bit harsh (and just plain wrong) let me put it this way: as writerly failure with zip to lose maybe only I'm free to point out the smelly elephant in this publishing kitchen: IF you write and publish and offer for sale books that then mostly SELL...you'll be fine. The only sectors of the industry threatened by the lifting of PIR's are those that consistently can't sell their books in the market in which they're placed, whether it's here or overseas. And maybe – just maybe – those sectors need to pay attention to the market signals of unsold books – whether it's 'pulp fiction' or 'high lit' they're producing – or just wither and die.

A 'vibrant' publishing industry doesn't automatically mean a 'big' one. Quite the opposite, really, IMHO. Contrary to most I think there are too *many* Australian writers, too *many* Australian publishers, too *many* Australian agents, too *much* Australian 'industry' and – as a result – too many *unsold books*. And that this has been greatly exacerbated since 1991 by the way that PIR's have freed the industry

up to cut *too many* international rights deals that it sort-of suspects aren't going to sell many actual *books* overseas - yet is not quite restrained enough by a supply-and-demand feedback calculus to eschew.

Selling rights v. selling books

Many PIR supporters – Tim Winton, Michael Heyward of Text, Garth Nix, Kate Grenville – have tooled up long articulations of why the industry is so 'vibrant' today, explaining the way PIR's and the subsequent international rights trade has produced a kind of trickle-down effect on local literary fecundity, blah blah. They write brilliantly and from the heart and with great passion and buckets of research and not for a second do I or would I question their deep good faith.

But Famous Writer Dudes: is this RIGHT? Heart of hearts, hand on heart, Peter Carey. Tim Winton. Matthew Reilly (O ye of self-starting self-published fame, just by the by, you suh-*lightly* disingenuous teacher's pet, Matt).

Is this talk about rights trading, editorial trickle-down, local structure-building, international player activity, and so on...giving rise to a *genuinely* vibrant local primary production field? Or is a lot of it more about clique-ish empire building, industry quasi-nepotism, schlepping about the festivals and trade fairs and 2020-

style for amouthing Lit platitudes? Does flying over to Frankfurt and closing a deal with a UK publisher to run off X copies of a local book that's sold only 3,000 or 4,000 copies here *really* serve any purpose beyond supporting a marginal local writer and, more generally, helping contrive a local industry for its own sake? Is it really 'selling' Australian writing overseas when you sell *rights* but the actual books those rights give rise to end up surplused in warehouses?

I am not suggesting international rights trade is *all* about hype-flogging a 'derivative' product (ie rights) rather than the real thing (ie books). Only industry insiders really know how many of the rights deals you cut translate into viable *book* sales internationally for overseas publishers and how many don't; and thus what percentage (implicitly) depend for *their existence at all* on PIR's preventing the market fruits of over-ambitious push-selling from having an (otherwise self-correcting) impact back here. But when Michael Heyward asks rhetorical questions about how on earth the rights trade 'growth' since 1991 is going to be sustained if PIR's *are* removed, you have to ask yourselves whether or not all the publishing industry 'vibrancy' since then is actually *real and sustainable*.

Yes, I think that international rights trading is great for writers and agents. But I think it has to be at least vaguely responsive to the longer-term international market signals (book sales) to be sustainable. We don't want to get a reputation

overseas of being a publishing industry that's great at selling publishing rights, but not so bankable when it comes to selling actual books. Because the two are, of course, umbilically-connected, even if the chord is a bit stretchy.

Market signals of unsold books generally

In more general terms it's time for the industry to start taking the matter of unsold books seriously as a paradigm-shifting imperative.

It's long been held in publishing that they are the unavoidable by-product of an inherently speculative industry. There's an element of truth in that – though less and less as technology reduces lead time and economies of scale, and print-on-demand and e-books loom - but I also think there is an extraordinary corporate-cultural resistance to any real examination at all of the market signals Australian publishing has been consistently receiving for years. It's clear that we're voracious readers. We'll buy overseas Big Names in hundreds of thousands. Why then do large and consistent numbers of unsold Australian books – particularly of the 'high lit' kind – not set the market signal warning hooters blaring on the factory floors?

Why is the instinctive industry response to a novel that just doesn't interest

Australian readers usually not 'This writer/book was obviously not good enough to

publish in such large numbers of hard copy', but far more likely one of the 'This writer/book is a complex and challenging and dense but profoundly moving contemplation of Australian life on a farm in the thirties...' kind – which everyone knows is often industry open code for: 'SELF-INDULGENT, UNREADABLE STODGE'?

Why do Australian publishers so distrust Australian readership-demands-asmercantile-market-signal? Why is it that a 'successful' serious novel is regarded as one that sells as few as 2,000 copies?

This is mercantile madness. And the internet is not going to allow or excuse it any longer on 'cultural and artistic', lit-crit push-polling and/or writer-mates' clique-philanthropy grounds. The days when Australian publishing could regard unviably low sales of a 'serious' novel as some kind of oddly-inverse imprimatur of its 'literary quality' are gone. In a country that will buy Stephanie Meyer in truckloads it's a lazy and arrogant abnegation of industrial duty and a sneer in the face of Australian readers to keep doing so.

Rather than jetting about the world trying to flog that low-selling 'quality' book overseas as an all-purpose cultural-emissary-come-extra-advance-wringer-outer,

13

maybe Australian publishing should be having a harder look in our backyard for writers who can write 'quality' that *local readers want to read in viable numbers*. And not publish them more than once (or perhaps twice) until, and only if, you do find such writers. Maybe even the idea of 'quality' itself needs to change.

One thing's guaranteed: that nonsense from Gary Disher about publishing being an industry obliged to pump-prime the career of certain kinds of precious writers, who may need ten years and five, six, seven novels to 'find a readership', is history. They should get a damned blog and go 'seek out' their readership under their own steam, in the great ethereal miasma online. And come knocking on book publishers' doors in a decade.

Practical flaws in the PIR case

Plenty of writers boogeyman up examples of what's likely to happen in practice if PIR's are lifted. Toni Jordan's regarding her UK edition of *Addition* is admirably precise. She should be applauded for being so gutsy and generous with it.

But really, TJ: think it through a bit. Do some number-crunching.

How *likely* is it that overseas publishers, having exhausted their own market and finding themselves (like Jordan's publisher) with 'some thousands' of remainders, are going to calculate that there's an extra buck to be squeezed from shipping them all down here, even to catch a second or third sales surge (off an award longlisting, as in Jordan's case)? Come on, do some sums and be a bit honest rather than wishful. Shipping, distribution, placement in retail outlets, contractual mechanisms with retailers, the on-going hassle of long-distance marketing and trying to compete with the local boys – really, how often will they bother?

Much easier, cheaper, quicker and far more overhead and risk-free to set up a UK website and try to shift them that way: worldwide, direct to punters, leaping PIR's everywhere with a few mouse-clicks and credit card details.

Even this is hardly much threat. By their nature those overseas remainders and 'surplus' copies aren't *Da Vinci Code*, right? Guys, they're books that aren't *selling in their O/S market*. Chances are in *most cases* there's not going to be all 'that' much of an Australian market to come home to 'cannibalise', either. And TJ herself points out that her local publisher is riding the Miles-Franklin long-list surge with a 'handsome' new edition of *Addition* themselves. That is, Australian publishing is not a passive waif unable to fight its home ground using only mercantile weapons if necessary (as opposed to big mummy guv'mint ones, too). I

15

hope. Peter Temple's response to UK *The Broken Shore* PIR-busters seemed pretty feisty, and I can't see him acting much different without them there.

One last thing in practical terms: the pro-PIR case is full of contradictions. On the one hand 'floods' of cheaper imports are going to undercut local editions and thus writer incomes, PIR supporters say. On the other hand there's no guarantee those 'cheap' imports ARE going to be cheaper, according to PIR supporters. Finally, PIR supporters say, readers don't care much about price anyway.

Writer dudes: you can't have it all three ways.

Contracts, not copyright, are the basic unit of publishing

Tim Winton calls copyright the most important fact of his industrial life. He's wrong. That would be his signature on a contract: *that's* what underpins his income. The least honest part of submissions defending PIR's has been the universal sly attempt to misrepresent any change to PIR's as an 'assault on copyright'. Bollocks. No writer or publisher has to sign anything. If one doesn't want overseas editions threatening local sales then he can just refuse to sign any overseas publishing contract that may give rise to that.

Fine, so the power-asymmetry in publisher/writer contractual negotiations is usually pretty grim. Oh, boo-hoo-hoo. Welcome to the real world where most of us have zero writerly power. The rules are the same for us all: pen Harry Potter II and no doubt you can write a Porsche, a palace and dinner with Madonna into your small print. It's not up to government to do your agent's job.

More important copyright issues

Worrying about PIR's in the internet era of Amazon and universal cut-n-paste 'fair use' blogging is like fretting over your bad haircut as you mount the steps to the guillotine.

There are massive industrial upheavals in the offing, none more so than regarding the matter of genuine copyright protection. It's not stray books threatening to cross geographical boundaries you need to grapple with. It's Google archiving, it's digital readers, it's Amazon and Kindle side-stepping the entire existing bookbased remuneration system, leaving publishers – as a secondary, not primary, industry – with absolutely nothing left to do.

Everything is changing. The hard copy book as the industry's 'word toll collecting' business model of first choice is under great threat. Who knows what

sort of user-pays, online subscription, by-installment mechanisms are going to evolve for earning a buck out of words in future. You have to remember that publishing is not about selling a product or providing a service. You are *toll collectors for other people's words*. The current toll-gate you man is the hard copy book. It has lots of competition now. Its singular ubiquity as a toll-collecting model cannot prevail for long.

Two things, to me, seem clear: there are going to be *fewer and fewer* books published, not more; and fewer and fewer writers earning their primary word-income via that form of toll collecting boom-gate.

Advance system

That also means that the advance system of payment is going to change.

I think advances are going to shrink and become harder to justify, in a digital climate in which a real time 'user-pays' toll-arrangement on words, in a much more market-responsive (that is, reader-responsive) paradigm, comes to dominate. Advances are risky and often never paid out in sales (unsold books again); only those writers who do regularly meet advances in sales will maintain the luxury of the viable, paced income the advance system represents. Writers/publishers who

usually *don't* make their advances (here and on O/S rights deals) – who fail to satisfy market signals – are inevitably going to end up migrating online.

PIR's – like any artificial arrangement which buffers producers against market signals – have to change to start easing in on these realities on a proactive basis.

The internet and its challenges

Sorry, I love books as much as anyone, but it's time you all got real about the internet and digital publishing. No-one else who works with words – journalists, academics, public service information providers (like this PC), politicians – is immune from the mighty word-migration now underway, from hard copy to digital. As an intermediating industry – between writers and readers – book publishers are simply going to have to get with the program.

Books *will* endure. They're an aesthetic, practical and artistic 'classic' in terms of human epistemological innovation. We all love a beautifully-crafted, cracking good read in the bath, and we'll pay for them forever. Personally I reckon that with fewer books published, they're going to become better written, better edited, better printed, more beautifully bound, more elegant, more pleasing in every way. I bloody hope so. Nothing gives me the shits more than cheapy books full of cheapy

writing stacked sadly, despite their cheapy-ness, in un-bought cut-rate double-secret-probation-cheapy-cheap piles in the corner of some cheap shop.

The existence of PIR's – among much else in the suite of subsidies and protections the industry boasts – helps *give rise* to such unhappy sights, not (as most reckon) helps prevent it. I think the industry has *got* to take a deep breath and trust – at last – the reading marketplace and its signals to help reduce those sights, flush the dreck and junk and dross and bulk out of hard copy publishing, shoo all the cheapy-book-words-remainder-piles online where they belong.

It's going to happen anyway. The easy days of assuming that you can just publish a whole bunch of those cheapy books in the hope that every now and then one hits the market signal spot are gone. Keep publishing too many books that readers don't want to buy and many will stop buying books altogether and read everything online. The hot writers, the sharp readers, the 'literary culture' will migrate into cyberspace and you guys will be not just pressing vinyl in the age of the iPod, but pressing vinyl full of the second-rate singers and dud musicians, too.

Hardly 'vibrant'.

Time for a thinning of subsidy and protectionism

PIR's are just one part of the suite of industrial 'soft protections' by which the book industry has insulated itself against the base mercantile reality that you've got to sell books to be truly productive. Some thought is needed here, too.

Some of the naughty fibs sprouted about how PIR's have proved to be a much better 'solution' to assisting the industry than direct subsidy are a bit rich, given that the industry still gets a bucketful of taxpayer dosh up front anyway. I counted about 120 individual writers on some or other form of public payroll last FY in the Oz Council's (Lit Board) Annual Report. Lots of publishers, too. I see the likes of Text Publishing getting a grant of ten grand to fly to Frankfurt – this under 'International Market Development' – and it makes it a bit hard to cop Mike Heyward then intellectually double-dipping, with his claims that (thanks to PIR's) his 'going concern' company is able to shoulder the Big End of Town hard yakka of developing international markets all on their lonesome.

So please *please* sir don't take away our PIR's and damn us to the humiliation of public serfdom again.

Come on: bit of honesty thanks, folks. In fact I'm a far greater supporter of direct subsidy than PIR's. I think that outright handouts are a better system than some kind of Frankesteinian mix-n-match sheep in wolf's clothing. For one thing they're honest and transparent all around. For another they generally can be linked to specific work, creative produce, some bench-markable (or time limitable) imperative - all bracingly good for the artist's discipline. Mostly, though, they don't play silly games with market signals. They don't dress up – as do PIR's (plus subsidy anyway) - deep industry protectionism as faux-viable going concern.

Which is exactly what PIR advocates have often engaged in during this Inquiry.

Our book industry must be honest with itself. It's got to force itself to become responsive to unameliorated market signals. PIR protectionism is by no means the most egregious buffer, but every little helps, and there's just not enough reason to hang onto them as they are.

No entitlement to a writing career

I'd like to make one last point, about writing, publishing and the life of letters generally. As a failure at all three I think I am entitled to say this bluntly:

Everyone in this debate needs to understand that there's no *entitlement* to a writing or publishing 'career'. There's not even such an entitlement to a *living wage*.

Despite how many Australian writers apparently have a weird penchant for coming over all 'blue collar tradesmen', pursuing a career in the world of books is an elite, educated-workplace contrivance: an industrial *choice we – you – all make*. The urge may be vocation or ambition or both, but either way it's a workaday and working lifetime indulgence. As such competition is fierce, most of us will fail, and for the few, success should be seen as a blessing and a privilege.

A touch of industrial humility from our more successful writers wouldn't go astray in debates like these.

No-one has a 'right' to be paid to be a writer, an editor, a publisher, an agent, even a bookseller. Drum it into your heads. The whining sense of entitlement on display in this Inquiry has been a bit nauseating, especially in an era when fellow, non-book writers and publishing sector employees – journalists especially – are losing their jobs as a matter of market signal course. Not to mention every one else, too.

When makers of books – novels, poems, histories, memoirs, non-fiction, education, bios - whinge about 'living' wages, and 'minimum' income levels and industrial 'working conditions', as if governments are under some obligation to

underwrite them, they are all forgetting that setting out to write/publish for a living is a bit like setting out to be a rock star or a film actor. You've got to be GOOD enough. OK? There's no 'right' to achieving it.

Because the thing is this:

Most of us who *do* want to write for a living, are, sadly, like me, just *not* good enough. There are always going to be many, *many* more wordsmiths who want to write books but can't write them well enough to make a living from it, than can. Who want to edit books, but can't quite do it well enough to earn money. Who want to build a little publishing empire, but can't really make it pay.

'Special pleading' can't be allowed to come into the equation, or this debate, or this *entire industry*. Because if it could, we'd all of us have an infinity of sob stories to tell, and where and how would you ever draw the line?

The only answer is to let the 'readership' market decide, with their hip pockets. That's the only way to tell who's a writer worthy of earning a living from their words. Those who...well, can. And so...do. That's how it should be.

And certainly will be in the digital-internet age.

24

The idea of a literary life and a book culture is meaningless otherwise. Making a

living must come down to a writer's words winning enough paying readers. The

end. Enabling that, facilitating that, making a viable intermediary buck off that -

that's the only criteria for 'vibrancy' in publishing. Everyone who is literate is a

writer – and now a publishable one, is this online bloggy free-for-all moment.

The difference between a Writer – a writer who gets paid - and the vast majority of

us mere writers is going to come down to the bottom line. The future viability of a

truly vibrant Australian book publishing industry must start and end and turn on

that bedrock mercantile truth.

Conclusion: Whose vibrant publishing industry?

The changes proposed to the PIR's in the draft report are in my view an eminently

sensible expression of that basic underlying idea. They allow for a transitional

shift and a formal review in five years. They also retain the 30 day rule which will

reasonably safeguard satellite industries such as printing and distribution.

And I think they'd send a clear message to the industry:

Change is upon you, just like it is upon any other industry that relies upon copyrighted material distributed on a large scale. The days of seeking artificial compartmentalisation and separation of multiple markets are numbered. The industry needs to re-examine its fundamental business models and consumer and market signal assumptions.

Beyond that, for me, as both a keen reader and a failed and failing writer, I think this Inquiry should if nothing else serve as a prod to Australian publishing to ask itself whether or not it really is fulfilling the 'artistic and cultural' higher functions cited so often in their submissions. To ask: *do* Australia's 'serious literary' writers — who routinely sell paltry numbers of books — speak profound truths and deep insights to us all...or do they often just churn out worthily-vogue-ish pagegrinders? *Is* there enough ruthless self-scrutiny in Australian writing? Are the 'independent publishers' who discover our 'exciting new voices' really doing so, if barely anyone outside the industry ever seems to hear them, or want to hear them, or want to listen to them a second time?

Is Australian publishing really as 'vibrant' as is so universally claimed?

Or is it just vibrating shrilly inside an increasingly isolated, culturally and commercially exceptionalist echo chamber?