



The ABA's supplementary submission highlights those aspects of the Commission's study which need more detailed examination, or in which the ABA had not previously seen it appropriate to intervene.

In particular we wish to add to the debate relating to the cultural aspects of the study and the limitations the economic framework chosen places upon judgments of value in that culture.

Cultural weighting

There is a frustration felt by many of us involved in this debate that a reductionist approach has been taken in evaluating the economic benefits of culture and what structures should be in place to support those benefits.

The difficulty in extracting what is cultural output from the more commercial aspects of the book industry, given the depth to which these two factors intermingle, should not lessen estimations of the cultural value of the industry.

The ABA asks the Productivity Commission to explain its definition of culture, and what critical frameworks were applied in the estimation of its value. To this end, the reference list supplied with the report seems to have a limited number of relevant documents on the matter. The Productivity Commission's own study into the Social Capital highlights the difficulty in determining the correct economic approach to issues of culture and more widely social capital.

At present, there is limited understanding of social capital and how different policies interact with it, and measurement is difficult. Further research, coupled with small scale policy experimentation, may be warranted to provide better knowledge and tools for incorporating social capital considerations in policy analysis where appropriate.¹

The ABA agrees that small scale policy experimentation would be a more prudent approach. We also suggest further investigation through theorists such as Richard Florida, as suggested by Mark Rubbo, Managing Director Readings Books and Music, during the roundtable discussions.

The Commission's measurement of the contribution of culture to the economy through the framework of 'cultural externalities' appears to have ignored the externalities residing within the retail component of industry. The ABA asks the commission to revisit the weighting given to culture in light of the absence of any analysis of the cultural contribution of bookshops.

The local bookshop plays a significant role in rural and regional communities, particularly through its partnerships with libraries, schools, reading groups, kindergartens, day care centres etc. This role cannot be replaced by a department store.



The commission has indicated that their recommendations have the potential to cause closures, particularly in the independent sector. We reiterate that the closure of independent shops will have a direct impact on the local community through:

- Loss of jobs and income to the surrounding community;
- Loss of access to authors and promotions in local schools and libraries;
- Reduced access to a wide range of titles as department stores do not supply a full range.

We contend that the rationale for any proposed reform, which the commission has stated is ...(to) *Limit the transfer of resources from consumers and other industries*, needs testing against a more detailed analysis of the cultural value inherent in the book industry.

Further observations

The proposal put forward in the Discussion Draft appears counterintuitive to the argument for its introduction. The shift to a twelve month period of exclusive territorial copyright and an open market for backlist is a change of the same order of magnitude as opening the market entirely. The rejection of a totally open market was justified by the Commission.

... because of the uncertainty about the significance of the impacts of the PIRs, how the industry would respond to their abolition, and how large the accompanying adjustment costs would therefore be, the Commission is not recommending this course of action at this stage.ⁱⁱ

In light of this the ABA does not support the Commission's draft recommendation.

The ABA also considers that the Commission did not adequately investigate proposals for the enhancement of the performance criteria in the Copyright Act and the use of Canadian style regulations as recommended by the ABA, and other booksellers.

The Commission appears to have rejected the competitive effects of shortening the timeframes involved in any performance criteria required to maintain copyright. The commission then uses the APA's submission to reject the regulatory component of the proposal which is at odds with its own deconstruction of the framework of the APA's submission throughout the discussion draft.

Indeed subsequent to the release of the document the APA is on record in the Weekly Book Newsletter as calling it *a constructive and valuable contribution* to the productivity commission study.

As a final observation we see no additional downward pressure on price in reducing territorial copyright to the first twelve months of release. Indeed there would be an incentive for publishers to maximise the return from their investment during that period of certainty which could have the reverse effect.



Conclusion

Any proposal that seeks the removal of territorial copyright introduces significant uncertainty and shifts in market share. The Commission's discussion draft suggests that this will also lead to closures of smaller players in all sectors of the book Industry. We do not believe this is of benefit to the industry or consumers as it lessens competition and decreases the range of choices for the consumer.

We contend that there is still an opportunity for the commission to recommend constructive change while maintaining territorial copyright, which the majority of respondents assert is fundamental to their business.

A significant component of many retailer submissions call for there to be an efficiency dividend from the technological advances that have appeared since the 1991 amendments were introduced. This is in line with the commissions own directive from government contained within the Productivity Commission's report *Review of National Competition Policy Reforms*

The Commission was asked by the Australian Government to conduct this inquiry into the impacts of NCP to date, and report on future areas 'offering opportunities for significant gains to the Australian economy from removing impediments to efficiency and enhancing competition'.ⁱⁱⁱ

Making the market more efficient is at the heart of making industry more productive, and the ABA sees significant opportunities in proposals including our own that maintain the bedrock of territorial copyright while modernising the criteria for achieving and maintaining that copyright.

We thank the commission for the opportunity to respond to their draft document before their final report.

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ⁱ Productivity Commission, Social Capital: Reviewing the Concept and its Policy Implications 2003 p. VIII

ⁱⁱ Productivity Commission, Restrictions on the Parallel Importation of Books Discussion Draft, March 2009 p7.19

ⁱⁱⁱ Productivity Commission, Review of National Competition Policy Reforms 2005 p XIII