

**Second Round Submission to the  
Productivity Commission's Study into  
Copyright Restrictions on the Parallel Importation of Books**

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## **Introduction**

This is a short follow-up to my earlier submission, taking into account the Productivity Commission's preliminary report and my participation at the industry roundtable in Sydney.

It covers some specific and general points and due to the surprisingly rushed nature and short time frame of this enquiry has been written in haste.

## **The Preliminary Report**

Overall, the Productivity Commission's preliminary report generally confirms there is:

- No evidence that books are in fact generally more expensive in Australia than they are in the US and UK and that currency exchange fluctuations are the most significant factor in book prices;
- No evidence that if booksellers could source cheaper wholesale books through an open market they would pass any savings on to consumers; this is of particular concern when some booksellers already price up books above the publisher's rrp in order to increase their margins;
- Overwhelming evidence that removing the Parallel Importation Restrictions (PIRs) that are an intrinsic part of copyright would be extremely damaging to Australian authors, Australian publishers and Australian printers. There would be very significant financial losses, job losses in the thousands, and myriad opportunities lost.

## **The Flawed Draft Recommendation**

Despite these findings, and despite the current very challenging economic climate that should demand caution, by some leap of illogic the Productivity Commission has recommended a major change: that books only have PIRs for twelve months from first publication.

This ill-thought half-measure would be almost as damaging to Australian authors, publishers and printers and at the same time would be even less likely to deliver any benefits to consumers.

It is of particular concern that the Productivity Commission appears to have based this recommendation on the false premise that most books earn most of their income in their first twelve months of release. While it may be true that the majority of titles earn most of their income in twelve months, in terms of overall value of published books, this would not be the case, as the most successful books have lives well in excess of twelve months. Once again, as with the removal of PIRs in general, it is the very books that are most

profitable that would be damaged by an open market, impacting on Australian authors, publishers and printers.

One simple indicator of the importance of backlist (books older than twelve months) to Australian author's incomes and by extension publisher's and bookseller's revenues can be seen from the proportion of advance vs. royalty income in the last three years for the literary agency Curtis Brown Australia, which is the largest agency in Australia, representing over 700 authors and literary estates.

2005-06	Advances 56% and Royalties 44%
2006-07	Advances 54% and Royalties 46%
2007-08	Advances 57% and Royalties 43%

(Advances are initial payments for new books, typically paid in tranches, upon signing a contract, delivering a manuscript and upon publication. Royalties, due to the medieval nature of publishing accounting, are only paid twice a year with an additional three month lag, and only when the advances have "earned out", typically more than 12 months after publication.)

As can be seen from these figures, the 'backlist' income is generally equivalent to that made from new books.

Often, an author may be economically sustained by one key title, and an entire publishing house may be financially underpinned by a few key backlist books that sell well for years. It is these perennial sellers that enable small independents in particular to stay in business and continue to invest in new Australian authors and new books. They are also very important to smaller retailers, who typically cannot compete on new release books with the DDS who use books as loss leaders and the major chains who can discount more heavily.

The fact that the Productivity Commission has felt able to make such a significant recommendation as it has largely based on an assumption that backlist is not a significant part of the revenue of authors and publishers is extremely disturbing.

### **The 7/90 Day Rule**

While I totally support the 30 day provision of the PIRs, after reading the many submissions and also listening in particular to booksellers at the roundtable, it is clear that the 7/90 day rule is outmoded and is generally being used by inefficient publishers at the expense of booksellers and ultimately consumers. It should be amended to a considerably shorter period.

## **Book Retailing**

While almost every part of the Australian book industry has rallied to retain the Copyright Act as it currently stands, with the PIRs in place, it is a fact that Australian book retailers, as elsewhere in the world, are under great pressure and quite naturally some booksellers are pursuing any possible measures that may help their businesses.

Those most eager to remove the PIRs are the larger retailers, who in any case, have the greatest negotiating power with publishers and wholesalers. While it is understandable that these companies would pursue any possible advantage, if the PIRs are removed, even after twelve months, it is these relatively few companies that will gain the most, at the expense of smaller book retailers and all the other participants in the Australian book industry.

## **Removal of the GST on Books**

As has been said before, if the government truly wished to support the book industry, literacy, Australian culture, and the creative life of the nation it would follow the lead of other civilized nations and not tax books. Removing the GST on books would achieve the stated goal of making books cheaper, it would aid every segment of the book industry and be supported accordingly, it would aid literacy, enrich our culture and do a great deal to present an international image of Australia as a modern and thoughtful nation.

## **New Zealand**

Our neighbour has been much quoted in various submissions, and many statistics and data points have been thrown around. However, none of the reports cited actually address the issue that New Zealand had a tiny publishing industry before the introduction of an Open Market, so there wasn't much to lose. What there was has diminished, and it has also been established that New Zealand consumers haven't got cheaper books as a result of throwing away what little they did have. Furthermore, the vast majority of published New Zealand authors have their primary publishing relationships with Australian, British or American publishers and there is very little chance there will ever be significant New Zealand publishers on the scale of even our smaller successful independent publishing houses. Possibly the NZ economy always was too small to support a viable, internationally capable book industry, but opening the market has made that possibility a certainty.

Australia, on the other hand, has a vibrant and growing publishing industry, and the majority of Australian authors have a primary relationship with an Australian publisher, a vital stepping stone to an international career. Removing the PIRs and opening our market to American, British and Asian editions books without any reciprocity quite likely will produce a result similar to New Zealand: a tiny publishing industry and authors who must send their manuscripts to London or New York, and tailor them accordingly.