



NSW GOVERNMENT

SUBMISSION

TO THE

**PRODUCTIVITY COMMISSION'S INQUIRY INTO
COPYRIGHT RESTRICTIONS ON THE PARALLEL
IMPORTATION OF BOOKS**

DISCUSSION DRAFT

April 2009

The New South Wales (NSW) Government welcomes the opportunity to contribute to the Productivity Commission's inquiry into the parallel importation restriction on books in Australia and assess whether the current regulatory framework continues to be effective in offering choice to consumers and supporting the development of the national book industry.

The NSW Government supports the broad approach to the inquiry adopted by the Commission and commends the decision to:

- consider the benefits and costs to all affected parties, both in the book sector and the community more broadly; and
- apply a broad interpretation of 'benefits' and 'costs', including social and cultural impacts.

The present parallel importation of books restrictions have been in force since the introduction of the *Copyright Act 1968* (the Act) and have resulted in a high level of service and choice for consumers, healthy and diverse publishing industry, good level of competition in the book retail market, significant numbers of jobs in printing, and a robust literary arts sector. In addition, as a result of the 1991 '30/90 days' amendments, most books are now published in Australia in a timely manner allowing for better service to Australian consumers.

The existing arrangements also provide for an effective and flexible 'use it or lose it' approach and enable higher output of locally published titles, resulting in the publication of a greater number of authors and greater demand for the services of the local printing industry. They also enable publishers to invest more heavily in developing and promoting new authors. By supporting a larger publishing industry and, as a consequence, more Australian authorship, there is a greater portrayal of Australian events, as well as stories as seen through Australian eyes, with resulting social and educational benefits, and fostering Australian identity.

The NSW Government also emphasises the importance of books and writing to the State's cultural environment and its significant input to the national book industry, for example:

- The value of NSW exports of books totalled around \$71.2m in 2007-08, a substantial increase from the \$20.6m recorded in 2003-04.

- Despite the regulatory protection afforded to book publishing, book imports still far outstrip exports. The value of books, brochures and children's books imported by NSW was approximately \$352.6m in 2007-08.
- NSW imported 54% of total imports, suggesting that the State plays a key gateway role for the industry. This has significant implications for downstream industry participants in transport/logistics, book distributors and wholesalers.
- In terms of the geographic spread of businesses, there is a high concentration of publishing businesses in NSW and Victoria, which account of 52.6% and 40.2% of business respectively.

In recognition of the contribution of the industry to the State and national economies, the NSW Government's position has consistently been that if a significant reform is recommended by the Productivity Commission, it should be supported by robust evidence that the potential cost savings outweigh the benefits currently accruing to consumers (incl. in the form of positive externalities such as cultural advantage) and to the printing and publishing industries.

The NSW Government notes the Productivity Commission's comments regarding the insufficiency of data necessary to accurately describe and analyse the market. The considerable uncertainty regarding the magnitude of any actual price effects caused by Australia's parallel importing restrictions, highlighted by the Commission, and its failure to identify clear benefits that would result from implementing the draft recommendations do not provide a sound basis for changing the present well-functioning environment.

The NSW Government considers that without a greater understanding of the market and potential impact on the cultural, social and educational benefits of the existing arrangements, the Draft recommendations risk undermining industry activity and the resulting economic and cultural benefits to the community, such impacts may not be reversible.

Any changes to the current regime should be backed by reciprocal changes in major English speaking markets.

In summary, the NSW Government supports the retention of the current regulatory framework until further evidence to the contrary becomes available.