



Australian Society of **Authors**

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Productivity Commission
GPO Box 1428
Canberra ACT 2601

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Dear Commissioners:

Re: Parallel importation of books – Interim report

The Australian Society of Authors is unable to follow the Commission's logic when it recommends the end of territorial copyright 12 months after a book is published. We fail to see how this recommendation will ensure that Australian authorship and publishing will continue to be sustainable.

The Commission describes the healthy, sustainable Australian book-publishing industry now operating. Since the draft release, more evidence has emerged that the sales of books are 'booming', as Dymocks director Bob Carr said in the *Inner Western Weekly* 17 March 2009. If Australian book sales are 'booming' during a world-wide economic downturn this is hard to reconcile with Dymocks' and the Coalition for Cheaper Books' claim that those same books are too expensive.

The Commission's recommendation would mean that Australian authors, who on the Commission's evidence generate only 40 to 45 per cent of books sold in Australia, would forgo the protection now enjoyed by authors in the world's biggest English-language book market, the US, and the second-biggest, the UK. In its observation that 'the dissemination of Australian culture [through book sales] can have a range of social and educational benefits,' the Commission fails to note the depth, range and emotional intelligence of work which reveals Australians to each other and the world.

Citing lack of data, the Commission does not show that books are more expensive in Australia than in the US or UK. It has also failed to examine the price of books in such countries as Japan, France, Germany, Norway, Spain and

similar industrialised countries where the primary language is one other than English. A cursory examination of book-prices in these countries reveals prices significantly higher than in Australia. Even if books were, on that proper examination of data which the Commission has not yet conducted, more expensive than in the US and UK, they are on the cheaper end of world book prices.

The Commission's assertion that 'what matters ultimately [in its study of PIRs] is the wellbeing of the community as a whole' reveals a principle so wide as to be arbitrary. We have the commissioners' assertion, repeated by Commissioner Mike Wood at the round-table discussion at Darling Harbour on 8 April, that it applies a principle, an 'ultimate' principle, which is so wide that it cannot embody the application of economic reasoning from data which is the Commission's reason for being. Legally speaking, the Commonwealth parliament lacks the power to delegate arbitrary power. In applying, or as lawyers put it 'purporting' to apply arbitrary power, the Commission acts beyond its statutory authority and its actions are void.

Be that as it may, the Commission recognises that 'measuring the magnitude of any actual price effects cause by [the PIRs] is problematic.' That the Commission, like other researchers, is obliged to apply guesswork instead of reasoning governed by verifiable data to the problem does not help make its recommendation persuasive.

While Australian authors are among the country's most voracious readers and would benefit disproportionately from any fall in retail book prices, without data establishing that PIRs in fact cause higher prices, and that abolition would lead not only to lower costs for booksellers but also to lower prices for book buyers, the Australian Society of Authors is opposed, for these reasons, to any change in the PIR mechanism.

Yours sincerely

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Chair