‘Australians deserve that their lives, experiences, country and culture be reflected in the literature that they read’

– Thomas Keneally

Nurturing creativity in an age of innovation
Copyright and Creativity

In publishing, copyright, and in particular territorial copyright, is the core principle by which writers and creators are rewarded for their ideas.

The current copyright law:

The *Copyright Act 1968* gives authors well-defined property rights, including the right to publish a work in Australia.

*If* a publisher holds the rights to publish the title in Australia, *and* makes the title available in Australia soon after its release anywhere in the world, the Act (Section 37) restricts the importation of commercial quantities of books without the copyright holder’s permission. These rules are known as PIRs – Parallel Importation Rules.

But, note: *individually* consumers are free to buy books from any market in the world.
What’s happening?

The government wants to repeal PIR legislation in the belief that this will lead to cheaper books for more people.

March 2015

The Harper review recommended government task the Productivity Commission with an ‘overarching review of intellectual property’ and amend laws to allow parallel imports.

August 2015

The government requested the PC review ‘Australia’s Intellectual Property Arrangements’. Parallel Importation Rules were included in the terms of reference.

November 2015

The Treasurer announced that the government supported the allowing of parallel imports of books, and would progress the recommendation after the PC's final report.

Advocates hope the change will ‘make local booksellers more competitive with international suppliers, promote lower prices for consumers and ensure the timely availability of titles.’

The government view is informed by the Harper Report:

‘parallel import restrictions on books and second hand cars should be removed’

‘would potentially lower prices’

‘should deliver net benefits to the community’
What’s at stake?

The creative industries are the fourth largest industry in Australia.

Some facts about the Australian book industry:

- More than 7,000 new titles published annually.
- $2 billion in revenue.
- Publishers direct investment in Australian writers for trade (non-educational) books and their promotion is over $120M per annum.
- More than 1,000 businesses in Australia are engaged in the publishing industry, employing over 4,000 people. Many are small businesses.
- More than 20,000 employed in the broader book industry, which includes book sellers and printers.
- Over 300,000 Australians attend over 100 literary festivals each year.
- Australia has the 14th largest publishing industry in the world.
- Australia has the largest independent bookseller sector in the English-language market.
- Average author income is only $13,000.
- The publishing industry does not depend on government subsidies. It is not protected by government tariffs.
- eBooks only make up 20% of the overall book market.
The publishing industry view

The Australian publishing right will be devalued. Investment in Australian works and Australian authors will be less attractive and more risky.

There will be:

- Fewer Australian authors and fewer Australian books published;
- Less diversity of books available to Australian readers;
- Jobs lost in Australian publishing, bookselling and printing;
- Lower royalties and lower advances for Australian authors;
- Less promotion of Australian authors and trade in their rights internationally; and
- Further reductions in the independent bookselling sector.

Many comments about prices are out of date, and quote a PC report that’s nearly 10 years old. Australian books are now similar in price to comparable markets. Prices have fallen by a third in real terms in the last decade. Many popular titles are offered at a 35% discount by large retail chains. The most optimistic projection for the fall of prices is around 10%. Some prices may fall further if PIRs are removed but only occasionally, and the overall impact will be to reduce Australian publishing.

Availability is no longer an issue. Australians can buy books from anywhere anytime. Publishers only keep Australian rights if they make books available fast, and an industry agreement guarantees they deliver in less than half the time allowed under the law. Unlike cars, consumers have long been able to order books directly from overseas.

Australians care about Australian narratives – in everything from sport to history, fiction to political biography. Authors in the other main English-language markets, including US and UK, have the benefit of territorial copyright in their home market.

Removing PIRs will NOT achieve the government’s intended outcomes.
The Australian book industry is competitive

The implication from government is that the current market operates with monopolistic tendencies. This is not borne out by the facts.

Prices are falling. Diversity is increasing. Availability is improving.

- **Average Selling Price** has reduced by 25%
  - Source: Nielsen BookScan (after adjustment for CPI)

- **Range of Sold Books** has grown by 15%
  - Source: Nielsen BookScan

- **Customer Waiting Time** reduced from 30 days to no more than 14 but often 0
  - Source: APA

The Australian book industry is successful because it is a consumer-facing industry that is deeply engaged with its market – Australians who love books.
Are Australian books price competitive?

Major new releases in Australia are both more expensive and less expensive than overseas editions. Generally prices are comparable.

The graph below shows a price comparison of 150 titles in the Australian market with the same titles in the US, UK, New Zealand and Hong Kong. Australian prices are represented by the red line.

Markets that have removed the value of their territorial copyright, NZ and HK, are almost invariably more expensive.

Note: all price comparisons of the foreign exchange rates are based on an average for a 12-year period, in order to avoid unrepresentative exchange rates at any given point in time.

The current economic argument is wrong. What actually happens when territorial copyright is removed is that publishers no longer have the option to price to market.
The NZ example – ‘free markets’ are not cheap markets

New Zealand repealed its PIR legislation in 1998. Since that time the New Zealand publishing industry has contracted. The range of books has reduced dramatically. The volume of print book sales has fallen. The price of books has also fallen but to a lesser degree than in the Australian market.

Note: Comparable data from New Zealand is only available from 2008 from when AC Neilsen Bookscan began operating in the NZ market.
Changing the law risks a threat to literacy levels

**INTENT:**
Cheaper books for more people

**IMPACT:**

**AUTHORS**
- Devaluation of Australian Copyright
- Less Incentive to Creators
- Fewer Authors

**PUBLISHERS**
- Fewer Authors
- Less Investment
- Less Innovation
- Fewer Books

**BOOKSELLERS**
- Fewer Australian Books
- Margin Pressure from Cheap US/UK Books
- Risk to Sale-or-Return Model
- Fewer Booksellers

**READERS**
- Fewer Authors
- Fewer Books
- Fewer Booksellers

**OUTCOME:**
Fewer books in Australian households

Created by Australian Publishers Association
The authors’ view

Author income has fallen, on average, to just under $13,000 per annum.

The Australian Society of Authors outlined the negative impact that removing PIRs will have on local authors in a petition to the Treasurer, Scott Morrison. It currently has close to 3,000 supporters.

‘[Removing PIRs will mean that authors will be] giving up a sovereign intellectual property right without gaining any reciprocal right with the world’s largest book-producing nations, the USA and the UK. Rather than producing a level playing field, it would dig a very big hole for Australian authors, publishers and printers.’

– Garth Nix

‘The present arrangements of subsidy are important to individual writers but are too intermittent and haphazard... a subsidy on a scale to make up PIR is unlikely to be politically viable, guaranteed or permanent. Would such a subsidy survive economic downturns, razor gangs, changes to policy and of government?’

– Thomas Keneally

‘The consequences will be job losses, public revenue loss as profits are transferred overseas, and a brutal reduction in the range of Australian books publishers will be able to publish. Australia will become, as it was in the 1960s, a dumping ground for American and English books, and we will risk becoming – as we once were – a colony of the minds of others... The book industry is not a protected industry. We are not asking for money, or for a subsidy. We are asking for the same rules and intellectual property rights that prevail for writers and book publishing in the USA, in Britain, in Europe.’

– Peter Carey, Thomas Keneally, Richard Flanagan
The current case for the removal of PIRs relies on simplistic economic analysis and arguments, and a more sophisticated analysis demonstrates that the case for appropriate copyright protections, especially those that encourage diversity and the entry of new producers, is strong. The arguments for removal of territorial protections for books is similarly based on a simplistic view of the business of publishing in Australia.

Maximising benefits to society via copyright policy requires balancing social benefits of maximising access to existing copyright works with the social benefits created by future new works that will be encouraged by the returns that copyright protections enable.

A static, simplistic analysis produces a social benefits curve which presumes less copyright protection equals greater benefits to society.

A dynamic analysis that incorporates the complex balance between access and availability and creator incentive produces a very different social benefits curve.

Simon Molloy, ‘Territorial copyright for books in Australia: A real-world analysis informed by the theory of impure public goods’
The report surveyed 755 Australian consumers, and conducted two focus groups in the seats of McMahon (18 Feb) and Wentworth (23 Feb). Key findings were:

- Cost of living is the major national issue but angst about book prices is a very small factor, except for educational books.
- Public sentiment in favour of authors is high, especially when told how little the average Australian author earns.
- 44% of consumers are opposed to the change (removing the PIRs); only 30% support it.
- Jobs, maintaining investment in Australian writers, and promoting the survival of specialist bookshops are the public's preferred objective for book market reform.
- Opinions against the move are most strongly based in support of writers, jobs, and culture.
- More voters are likely to be put off supporting the Turnbull Government if the change is made, than vice versa.

“It depends on how much cheaper. If it’s less than 10% it’s silly, I’d say let people keep their jobs…”

“Australian stories should be made in Australia.”

“I think it’s important to take my kids into a bookstore and for them to interact with the books.”

“I’m happy to pay a bit extra to protect jobs [for] publishers and writers. I also want a wider range of books and to keep non-mainstream ones.”

“Australian books are not that expensive compared to mass-produced foreign books, and we must protect Australian authors and publishers to ensure we retain our heritage and culture. I still have books I bought more than 30 years ago. They are definitely worth the price I paid, and I would hate to think of those books never having been published because the Australian author could not find a foreign publisher to take them on.”
The Print Industry View

Despite the many phases of structural and technological change, the industry has embraced ‘digital disruption’ and invested in quick turn-around book printing suited to the current demands of the Australian book market.

The Australian print industry is a billion dollar business. In 2014-15 it generated $7.1 bn in revenue. The publication print services sector alone generated $2 bn and employs over 3,600 people.

If PIRs are removed:
- The demand for the services of a domestic publication print industry will be reduced beyond the point of sustainability
- Employment will be threatened in some already vulnerable regional communities
- Australia will lose specialised skills

The flow on effects will be:
- A drop in demand for locally sourced paper impacting on paper mills in many regional areas
- A drop in demand for domestic custom book cover embellishment
- A drop in demand for sheet-fed printing
Tertiary students and academics demand and deserve teaching and learning content that reflects our Australian culture at the highest possible quality.

Relevant Australian research, case studies and digital learning services equip our students with the building blocks to future employment and innovation. Publishers are investing heavily in the transition of Australian print content to digital. The current PIRs provide a framework and level of certainty for publishers to continue to invest and innovate in Australian authors and content. A decline in revenue will undoubtedly result in less investment in specific Australian educational content.

Textbooks are very different to other books. All over the world they are becoming more expensive to produce (when compared to other genres) because there is increasing demand for high-quality, expensive, localised, digital content to support print editions. Educational textbooks are evolving into course packs which include access to high quality resources such as videos, animations, on-line assessment, case material and adaptive learning products. These also benefit academics greatly with teaching support materials, cutting down preparation and marking time, to allow for more efforts on research and individual teaching support. Textbook prices now have to cover:

- Substantial student and instructor digital support materials
- Permission fees for 3rd party content and photographs
- Rich pedagogical and design values including illustration creation
- Small print runs with a 2 to 3 year window of sales as content rapidly requires updating.

Despite the rising costs of production, Australian textbook pricing is comparable with other markets.

The graph below shows a price comparison of 100 titles in the Australian market with the same titles in the US, UK, and New Zealand. Australian prices are represented by the red line. The data shows that Australian textbooks are never the most expensive and are often at the lower end of the larger English market price range. It also demonstrates that territorial copyright does not determine price.
A legacy to avoid

The government’s plan to remove Parallel Importation Rules (PIRs) in the Australian book industry will have a devastating economic impact on the industry, from authors to publishers, from printers to booksellers.

It will also have a detrimental impact on Australian culture.

- The removal of PIRs will also have a significant consequence culturally, with a loss of the Australian narrative. It will be much harder for Australian publishers, with reduced income, to invest in emerging local authors, or to support and promote established writers.
- The government has put forward projected benefits for removing the PIRs, without any evidence or calculated assessment of the trade-off. One Treasury adviser has called it just a ‘war of words’.
- But it’s not worth risking jobs, Australian narratives, and a strong creative industry, for small price benefits that will advantage only a very few large retailers.
- Australians care about the Australian narrative and literacy, which form an important part of our national identity.

**Australian writing is Australia’s greatest cultural, and free-trade, success story.**

The book industry – and the Australian narrative and literacy – is under threat if the government moves ahead with its plan to remove Parallel Importation Rules.