

SPINIFEX PRESS
 SUBMISSION ON COMPETITION POLICY REVIEW,
 DRAFT REPORT, SEPTEMBER 2014

SPINIFEX PRESS

Spinifex Press PTY LTD is a small independent feminist press established in 1991. We are a local commercial enterprise with a decidedly international market. We have been exporting books and selling overseas rights since 1991. We have sold rights into twenty languages as well as into six English-language territories. The publishers and founders have extensive knowledge of the publishing industry.¹

COMPETITION

The idea of competition is like the idea of equality. There are two ways of looking at it: opportunity for competition or competition outcomes. In the racing industry competition is based on outcomes because if there were no 'correct weight' or 'handicaps' there would be no uncertainty about which horse would win. The result would be no racing industry. The publishing industry is more like this than a situation where there is opportunity for competition. PIRs is based on the view that opportunity for competition is more important than competition outcomes. PIRs will result in the swamping of the market with overseas products (books) where the economies of scale are vastly different. The outcome of this 'competition' will be like a horse race without handicaps.

COPYRIGHT

Spinifex Press is very experienced in the buying and selling of territorial rights. We are assiduous in keeping to the time frames (30/90 day rule followed by the 14/14 day rule) necessary to securely hold the territorial copyright in/of our publications. Any loosening of these rules will have a very significant effect on our sales.

In addition, the consumer will also be worse off. Why would that be so? Spinifex Press publishes paperback editions of books that are published in hardback editions in territories such as USA and India. That means that we get these books to the market sooner than overseas publishers and at a cheaper price. Examples:

¹ Susan Hawthorne has been involved in the publishing industry for more than thirty years as a writer, reviewer, editor, festival organiser and publisher. She worked as an editor at Penguin Books for four years and is co-founder and Director of Spinifex Press. She is an active member of the Independent Publishers Committee of the Australian Publishers Association (APA), Australian Society of Authors (ASA), the Small Publishers Network (SPN) and is the English Language Co-ordinator of the International Alliance of Independent Publishers (IAIP) based in Paris. She is also Adjunct Professor in the Writing Program at James Cook University, Townsville and a sought-after speaker on many aspects of publishing. She is the author of *Bibliodiversity: A Manifesto for Independent Publishing* (2014).

Renate Klein has been the editor of an international book series with Pergamon and Columbia Press and was the European Editor of *Women's Studies International Forum*, an academic feminist journal. She has been Associate Professor of Women's Studies at Deakin University until her retirement in 2006. She is co-founder and Director of Spinifex Press.

- A recent book published in Australia at a price of \$29.95; the US HB edition is \$56.95. Part of that cost is the cost of freight or what we have called 'book miles'. The additional cost contributes to the excessive use of carbon-based fuels and at a time when the USA and China are moving on climate change this is an important consideration.
- The Indian edition of a co-published book, available in PB in Australia for \$24.95 is made available in an Indian-produced HB edition for \$33.95. Clearly the consumer in this instance is losing out, both in terms of timely and easy availability as well as on cost.
- Should the customer wish to purchase a HB edition, they can do so by making a special order through bookshops, so there is no loss for customers who wish to pay top price and wait for a HB edition.
- In the case of an Australian originated book, the same price differentials would apply with the further detrimental effect on the author, who instead of receiving a royalty of 10% of RRP would receive only 10% of net receipts. This is a significant loss for authors who are already one of the poorest groups of producers of cultural content, in spite of the fact that their content is the basis of a great deal of value added product.
- IPRs are the core of the book publishing industry and a nation's IPRs are an important asset for all consumers for whom knowledge of history, culture and literature creates an eco-social system in which more locally created work is produced. To go without national IPRs is like trying to grow a forest on degraded soil or desertified land.

RESPONSE TO RECOMMENDATIONS

- IPRs (Draft recommendation 7)

In December 2008 Spinifex put in a Submission to the Parallel Importation Review and in July 2013 a Submission to the Australian Law Reform Commission. In neither case did these reviews see fit to change the rules and the stated intention of the Productivity Commission to pursue this again appears to be a waste of productivity resources. It is a complex area where the law and industry reality overlap and the previous reviews have sufficiently encompassed any questions that now are raised yet again. There have been no substantive changes in the industry during this time.

- IPR exception (Draft recommendation 8)

As indicated above (Copyright), exempting intellectual property from the CCA would result in significant uncertainty for rights holders. This would have an overwhelming impact on independent publishers like Spinifex who do not have overseas offices. A multinational publisher or a large independent publisher with offices in the UK or USA would not be affected in the same way.

For example, Richard Flanagan's Man Booker Prize-winning novel *The Narrow Road to the Deep North* is available in Australian bookshops in Australian, US and UK editions. All are published by Random House who are minimally affected by selling multiple editions in multiple markets. But Spinifex would lose market share if overseas publisher editions were available alongside the home-produced

edition. And the author would also lose on royalties (instead of receiving a royalty of 10% of RRP would receive only 10% of net receipts).

- Parallel importation (Draft recommendation 9)

As indicated above (Copyright), the impact of parallel importation on Spinifex and on independents of comparable size, would eventually result in the undermining of independent publishers in Australia. The long-term result would be the likely demise of a number of independent publishers and therefore a reduction in diversity of books available to the consumer in Australia. Independent publishers are constantly reinventing themselves in the market place. Parallel importation would increase the difficulty of survival with the end result that Australian readers would lose the chance to purchase books that are long-lasting and which have both commercial and cultural significance.

Sally Morgan's *My Place* was published by independent Fremantle Arts Centre Press and remains an important book in Australian writing and culture. The same is true of Merlinda Bobis' novel, *Fish-Hair Woman*, winner of the Small Press Network (SPN) Most Underrated Book of the Year Award (2013) and just this week also winner of the Philippines National Book Award and currently being translated into Spanish. The ability to publish, to make critically acclaimed work available to Australian readers is the most important task that independent publishers do. Independents do take risks and they are risks for the future.

- When Spinifex Press co-publishes with overseas publishers, we inform them of the 14/14 day rule. In almost every case, publishers are puzzled by this rule because it is an unusually open approach to IPRs. To open up the market even further would put Australia outside the standard industry practices internationally.

CONCLUSION

If parallel implantation were implemented Spinifex Press and other independent publishers in Australia will face territorial copyright uncertainty. Consumers are likely to have to pay more and wait longer for imported editions because if there is no local publisher to take on the book, there will be no rush to release the overseas title in Australia; the 14/14 day rule creates competition of outcome.

Consumers will have to pay for the 'book miles' travelled by books that would otherwise be available and easily ordered locally. In the long term, the impact of PIRs will be felt by publishers and by authors. This will have an overall detrimental effect of bibliodiversity (see Susan Hawthorne's book, *Bibliodiversity: A Manifesto for Independent Publishing* sent to the Secretariat under separate cover as well as a PDF attached).

The implementation of PIR will have its greatest effect on independent publishers who are the most active exporters. These are precisely the publishers whose work should not be penalised by changes to the law. A publishing industry without these players is much the poorer and it will have an effect not only on the culture but on consumer access to books at a competitive price, low book miles and readily accessible from a local publisher via a local bookseller.