

Books: the case for parallel imports

Professor Allan Fels, chairman of the Australian Competition and Consumer Commission, argues that an open market would make Australian book prices more competitive with those overseas and give consumers fewer incentives to purchase offshore

The Australian Competition and Consumer Commission has been asked by the Federal Government to examine the potential consumer benefits of an open market for books.

In 1991, amendments were made to the *Copyright Act* that had the effect of opening the market to competition from parallel imports of overseas versions of books in certain circumstances; specifically if new releases were not available in Australia within 30 days of overseas release or if backlists were not supplied within 90 days of an order being placed.

These amendments primarily addressed the issue of availability of books. Their impact on prices was less clear because in most cases it was likely that the Australian copyright holder would continue to be the sole supplier to Australian retailers.

The Commission's concern is that restrictions on parallel imports mean that Australians will pay too much for books compared with overseas. This is because publishers are able to price discriminate between geographic markets according to what each market will bear. Furthermore, a lack of competition in supply is likely to mean that costs are higher than they should be. Such inefficiencies tend to flow through the supply channel.

The Commission's international price comparisons confirm that Australians continue to pay too much for certain books. During the years from 1988-89 to 1997-98 Australian prices for best-selling paperback fiction averaged 50 per cent more than their U.S. counterparts. Over the four years to 1997-98, Australian prices of bestsellers, excluding hardback fiction, averaged 30.9 per cent more than U.S. prices.

Since 1991, it has become increasingly likely that new releases will be published in a large format paperback edition in Australia rather than the traditional hardback format. In comparison, most U.S. new releases are still published in hardback. This means that it is not possible to directly compare the prices of many books available in both Australia and the U.S. Nevertheless, the Australian Booksellers Association (ABA) provided the Commission with a survey of the prices of 77 bestsellers at selected bookshops. On the basis of the survey, the ABA and the Australian Publishers Association concluded that in many cases Australian book prices were lower than overseas.

The Commission does not dispute that large format paperbacks are generally cheaper than hardback versions. But the Commission does not consider that this means that Australian consumers are necessarily better off as a result. This is because Australians who have a preference for hardback versions are often denied access to such editions. Furthermore, as the retention of territorial copyright enables publishers to price according to what the market will bear it is likely that the prices of large format paperbacks are more expensive than

they would be if prices were determined in an open market.

Opening the market to potential competition from parallel imports would ensure that Australian consumers are able to choose the price and format combination that best suits their needs and that those prices are competitively determined.

The opponents of an open market tend to focus on two main areas of concern: the impact that an open market would have on the incentive to promote a title and author; and the likelihood of remaindered overseas editions being imported into Australia and undermining sales of the Australian version.

The promotion of an individual author and title is usually done at the publisher's expense and may include authors' tours. It is difficult to say whether existing levels of promotion are appropriate. But the Commission considers it unlikely that an open market would lead to the total cessation of publishers' promotional activities. There are reasons for this view:

- publishers must compete for retail shelf space. Publishers who offer promotional support are likely to be preferred by booksellers over those that do not;
- local publishers may have a competitive advantage over potential suppliers of parallel product. This could occur if they are the cheapest source of supply or if they offer superior service to booksellers. The Commission understands, for instance, that many booksellers have a preference for supply on a "sale or return" basis. Parallel products are likely to be available on a "firm sale" basis only. By engaging in price and non-price competition in an open market, publishers may find that there is actually little impact on their sales. Consequently, there would be little incentive for them to alter their promotional activities.

Regardless, promotional activities apply to only a small number of new titles. There is little promotion of backlist titles. And word

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of mouth is still an important means by which some books become best-sellers.

The issue of remainders is primarily of concern to Australian authors who have international markets.

Unfortunately, there are few such authors. The Commission considers that remainders are unlikely to undermine authors' incomes to the extent claimed because:

- most sales of a title occur within a few months of release. Books are usually remaindered about two years after publication. So if books are available in a timely manner in Australia, remaindered overseas editions will not provide potential competition until the majority of sales

have already been made; and

- authors may be able to overcome potential concerns about remainders through contractual negotiations.

The Commission considers that the magnitude of the potential detriment to some authors does not justify a closed market. If the development of export markets for books is desired, and an open market does impede such development, it is preferable to directly subsidise authors through literary grants, etc, rather than funding such development through the implicit subsidies that Australian readers currently pay as a result of the closed market arrangements.

The 1991 amendments have generally improved the availability of books in Australia. But the Commission is concerned that both publishers and booksellers find the legislation difficult to apply. Booksellers, in particular, have little way of knowing

whether a particular title has retained territorial copyright. When in doubt, booksellers tend to wait for local publishers to supply the book. This means that opportunities to parallel import may often be lost and books might not be available as quickly as they should be.

Anecdotal evidence suggests that many consumers in some specialist segments of the market are purchasing increasingly from overseas via the Internet. Some general booksellers have also said that the Internet is a major source of competition. It would appear to the Commission that opening the Australian books market would help local booksellers compete with the Internet. If Australian prices are more competitive with overseas then Australian consumers would have fewer incentives to purchase offshore.

Professor Allan Fels

From The Archives

Telecom meets the consumers

Dissatisfaction on the part of consumers and consumer organisations at Telecom's lack of responsiveness to consumers has led to moves to establish a Telecom Consumer Consultative Council. The Council is designed to improve the consultation, communication and mutual understanding between Telecom and its seven million residential customers, in the interests of better service delivery.

The need for some form of consultative mechanism was exemplified in the controversy over timed local calls, where confrontation between Telecom and consumer organisations might have been avoided had there been an exchange of information and views at an earlier stage.

Representatives of peak consumer groups and Telecom met in August last year and formed an Interim Council, which has held two subse-

quent meetings. The Interim Council is chaired by Dr Terry Cutler, Telecom's executive director of Corporate Strategy. Deputy chairman is Robin Brown, director of the Australian Federation of Consumer Organisations.

Full details of the composition and operation of the council have yet to be finalised, and there has been considerable discussion about the criteria for selecting full members. The organisations represented on the Interim Council include Disabled Peoples International, National Council of Women of Australia, Australian Consumers Organisation, Australian Pensioners Federation, Australian Council of Social Service and the Rural Telephone Subscribers Association. Observers have included the Commission for the Future and the Communications Law Centre.

The Interim Council has discussed a wide range of issues including new billing proposals, pricing and

Community Service Obligations (CSOs). CSOs, the national social objectives which telecommunications carriers are required to observe, mainly refer to universal access and equity for non-metropolitan users but also include the uniform pricing of national infrastructure services.

Robin Brown said that he was optimistic that Telecom's seven million customers around Australia would get a better hearing as a result of the Council. Once the Council's final form had been decided it would provide a legitimate forum where national issues affecting consumers could be put to Telecom to gain a broader insight into community needs and concerns. Dr Cutler said that progress so far had been encouraging, and there had been useful discussion on a variety of issues, particularly the "very complex and vexed issue" of CSOs.

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