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May 28th 2015

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### **Submission In Response To The Competition Policy Review Final Report**

**Focus:** Recommendation 13, Parallel Importation Restrictions (PIR's) and their Effect on Product Supply and Competition

**Submission from:** The Co-op (University Co-operative Bookshop Ltd)

**Submission by:** Peter Knock – Chief Executive Officer

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### **About The Co-op**

The Co-op operates 60 book stores across half of Australia's Universities. We are Australia's largest Co-operative measured by members and owned by our 1.8 million members. Our sole purpose is to support students, and providing support services while delivering cost effective Books and learning materials.

### **The Co-op supports Recommendation 13.**

*'Remaining restrictions on parallel imports should be removed unless it can be shown that:*

- *the benefits of the restrictions to the community as a whole outweigh the costs; and*
- *the objectives of the restrictions can only be achieved by restricting competition'*

### **The general impacts of parallel import restrictions (PIR) include:**

- Artificial limits on wholesale sourcing channels;
- Creating an uneven playing field between domestic and international retailers not subject to PIR (that can therefore offer lower retail prices);
- Creating the settings for wholesale prices in Australia to be higher than they otherwise might;
- Reduction in competition, which is not in the public interest; and

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- Allowing International Publishers to change their business models at the expense of local retailers;

In relation to the last point some of the world's largest publishers (Pearson, Penguin/Random House) have created their own retail businesses ([www.bookworld.com.au](http://www.bookworld.com.au)) to actively compete with local retailers generally by regular heavy price promotion and discounting.<sup>1</sup>

While this is generally deemed good from a local consumer's point of view, the key problem that PIRs create for the local retailer is that they can ONLY buy their stock, from the same publisher who is undercutting them by selling directly to consumers, and at the price set by the publisher. Unlike almost all other retail, local booksellers have no other source of supply.

The Co-op understands that book publishers want to increase their sales, however PIRs give publishers a huge and unfair advantage, as they control both the purchase price for the retailers, because they are the only source of supply, AND they set the market price because they are also selling direct to consumers. The local arms of multinational publishers can therefore adjust their business model at the expense of local retailers.

While many publishers engage in direct to market promotion, an extreme example of this is where John Wiley has reduced wholesale discounts to retailers and actively sells directly to consumers at similar discounts. Once again this would have less impact if retailers had sources of supply other than the local arm of the multinational publisher.

The most interesting aspect of PIRs, however, is that the publisher still gets the benefit of the sale of the book, no matter where in the world the book is sold. Despite this, with PIRs in place it is generally more profitable for the local arm of the publisher to control the whole sales process in Australia.

The Co-op would have very little interest in PIRs if the playing field were level, meaning that we could simply buy books from publishers for distribution through our stores without being undercut by them.

The Co-op understands and notes the intent of recommendation 13 (To remove PIR's) is consistent with the findings of several Productivity Commission inquiries – in the context of Books and the Retail sector generally – over the past five years<sup>2</sup>. The Panel also found that reviews of these regulations consistently found that removing parallel import restrictions will result in lower prices for consumers.<sup>3</sup>

## **Summary of Key Points from: Productivity Commission Research Report – June 2009**

- Parallel Import Restrictions (PIRs) provide territorial protection for the publication of many books in Australia, preventing booksellers from sourcing cheaper or better value-for-money editions of those titles from world markets.
- From the available quantitative and qualitative evidence, the Commission has concluded that the PIRs place upward pressure on book prices and that, at times, the price effect is likely to be substantial. The magnitude of the effect will vary over

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*Bookworld* – refer to image on page 5 of this document

*Restrictions on the Parallel Importation of Books (2009), The Economic Structure and Performance of the Australian Retail Sector (2011) and Relative Costs of Doing Business in Australia: Retail Trade (2014)*  
Harper et al. (March 2015), *Competition Policy Review Final Report*, p. 171



time and across book genres.

- Most of the benefits of PIR protection accrue to publishers and authors, with demand for local printing also increased.
- Most of the costs are met by general consumers and students, who fund these benefits in a non-transparent manner through higher book prices
- Some of the effects represent transfers from book purchasers to local copyright holders, but the restrictions also cause economic inefficiencies and a significant transfer of income from Australian consumers to overseas authors and publishers
- PIRs are a poor means of promoting culturally significant Australian works.
- They do not differentiate between books of high and low cultural value. The bulk of the assistance leaks offshore, and some flows to the printing industry.
- Reform of the current arrangements is necessary, to place downward pressure on book prices, remove constraints on the commercial activities of campus and general booksellers and overcome the poor targeting of assistance to the cultural externalities.

### **Why Parallel Importation Restriction Removal is Needed Without a Transition period**

Parallel Importation Restrictions are effectively an anachronism of a pre digital age, creating what we believe is one of the last closed and regulated markets in the world. This, however, only applies to book retailers, not book consumers, who are free to purchase their books from many international websites.

The Co-op disagrees with the Australian Publishers' Association (APA) view that PIR are '*not fundamentally anti-competitive*'.<sup>4</sup> The APA appears to confuse availability with competition. Under the 'speed to market' agreement between the APA and Australian Booksellers Association (ABA), to reduce the 30/90-day rule to a 14/14 day agreement in practice, there still exists a mechanism that excludes parallel imports (an anti-competitive outcome) and while a title may be available, this is only through a single seller so the publisher maintains an effective monopoly over the domestic supply channel for that particular title (the same anti-competitive outcome).

We believe our Co-operative and campus bookselling industry is constantly fighting with one hand tied behind our backs. While we support copyright protections, I do not believe these rules, as they relate to tertiary text books, are conducive to providing a healthy retail economy in Australia. Further, they are now encouraging multinational publishers to unilaterally and actively undermine local campus and general retail bookstores.

While The Co-op supports the Panel's Recommendation, the proposed three year transition period requested by the APA for the implementation of reform is too long in light of the numerous inquiries where reform has been considered and recommended.

The distortive and protectionist outcomes of PIRs should not persist for a further three years as such a delay would only act to compound the damage already done to Australian book retailers. They simply cannot afford to wait, particularly in an environment where Australian consumers have always been able to buy from any supplier or retailer in the world.

Why restrict book retailers from the same right?

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APA (2014), *Submission on Competition Policy Review Draft Report*, p. 6



We also believe only theoretical implications have been presented so far, rather than any factual meaningful negative impact on consumers from continuing with any lengthy transition period.

Our Co-op is quite happy to compete on value with any competitor. However the playing field is not level.

Our competitors can buy from whomever they want, the same as our customers, generally avoiding GST as well.

However as an Australian bookseller we have to buy from the local arm of a multinational publisher and pay any price they set. In many cases this is effectively above the price the market will bear.

This creates the situation where from a simple Google search of a title, local consumers can find multiple sources of supply other than their local Book store or online site quite often at prices that are less than the local wholesale price of the book

### **Desired Outcome**

The Co-op is seeking removal of PIR's as they relate to booksellers to enable us to buy from the same markets as our competitors and our customers do every day. There is no justifiable reason for any further delay or transition period, possibly beyond a nominal 3 months. The APA has not been able to demonstrate why there is any realistic reason for a continuation where the benefits of the restrictions to the community as a whole outweigh the costs, and the objectives of the restrictions can only be achieved by continuing restriction of competition.

Every day we continue to have PIR's in place, we are less competitive and at the whims of our multinational suppliers.



Bookworld, reference 1



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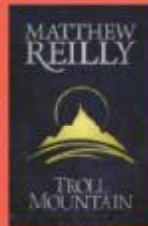
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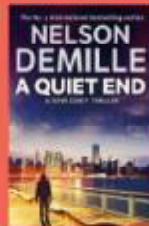
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