



## **#LoveOzYA Committee & Community response to**

### ***Productivity Commission's Report on Australia's intellectual property arrangements***

#LoveOzYA is an Australian literary community and grassroots movement; promoting international awareness of Aussie young adult (YA) books and authors, and encouraging a national 'Read Local' attitude in Aussie teens. The #LoveOzYA ('Love Australian Young Adult Literature') movement began online, and rapidly garnered the attention of writers, readers, publishers, booksellers and so many more invested in our national youth literature. #LoveOzYA aims to draw the attention of Australian teens to Australian books that speak to their experiences, and unites the youth-lit community. Further information about #LoveOzYA is provided in Appendix 1.

Our committee is writing to you today with the collective concerns of our community, regarding a number of detrimental outcomes resulting from proposed changes to the *Copyright Act 1968* (the Act). These include; free import of books, removing territorial copyright, and a general failure to recognise the unique needs of Indigenous artists under the current, and proposed changes to, the Act. We oppose the changes suggested by the Productivity Commission as we believe these changes will have a disastrous effect on Australian literature and see local stories and local authors devalued. We are in full agreement with the view expressed by **Australian Publisher's Association**, in particular, that removing parallel import restrictions will not achieve the government's intended outcomes; that out of date data on prices is being relied upon, and that the proposed changes will result in:<sup>1</sup>

- 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;
- Further reductions in the independent bookselling sector.

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<sup>1</sup> Australian Publishers Association, *Nurturing creativity in the age of innovation*, 2016

Scrapping Australia's current parallel importation rules and collapsing territorial copyright would not only be catastrophic for authors, publishers and booksellers (as recently outlined by celebrated writer Tom Keneally<sup>2</sup>), but also for readers who actively want to support our local books industry. Such changes would undo the good work done by grassroots organisations like #LoveOzYA, and all the passionate supporters who want to help our youth literature sector grow and prosper.

Award-winning Australian children's author Jackie French eloquently addressed this in an open-letter,<sup>3</sup> saying that the Report was 'rubbish' and morally 'indefensible';

*...for the future of Australia - economically, culturally - and for our children, who deserve not just jobs from cultural and technical innovation, but books written about their land, by Australians, in order that they know who they are and what we may become, it is criminal.*

Ditching Australia's current parallel importation rules and collapsing territorial copyright will not only see Australian publishing devalued, resulting in fewer Australian authors and books being published, but will have huge 'knock-on' effects, particularly to the range and diversity of titles being offered to Australian teens. The Australian and international youth literature sector has been making great strides in promoting another vital grassroots movement – 'We Need Diverse Books'<sup>4</sup> – which advocates essential changes in the publishing industry to produce and promote literature that reflects and honours the lives of all young people. This ethos aims to put more books featuring diverse characters into the hands of all children – recognising all diverse experiences, including (but not limited to) Indigenous peoples, LGBTQIA, people of colour, gender diversity, people with disabilities, and ethnic, cultural, and religious minorities.

Australia is a diverse nation and our stories should be as well. All YA readers should be able to find themselves in stories, and all YA readers should be able to find other people's cultures, identities and experiences in stories too. There is already a severe lack of such diverse titles in the Australian market where white, able-bodied, and heteronormative characters still abound as the "norm". But we are seeing improvements (slowly), with more diverse characters and creators being published and represented in our YA market. However, if changes to parallel importation rules and territorial copyright are implemented, then Australian publishing will be devalued and it will become correspondingly more difficult for diverse authors

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<sup>2</sup> (Keneally 2016) 'Productivity Commission recommendation threatens livelihood of book industry,' *The Australian Financial Review*, 29 April < <http://www.afr.com/business/media-and-marketing/publishing/productivity-commission-recommendation-threatens-livelihood-of-book-industry-20160429-goi2zq>>

<sup>3</sup> Jackie French, *An open letter from Jackie French (AM) in response to the Productivity Commission's Report on Australia's intellectual property arrangements*, Harper Collins < [http://blog.harpercollins.com.au/wp-content/uploads/2016/04/Open-Letter-from-Jackie-French\\_Theft-and-Failure-of-Economics-101.pdf](http://blog.harpercollins.com.au/wp-content/uploads/2016/04/Open-Letter-from-Jackie-French_Theft-and-Failure-of-Economics-101.pdf)>

<sup>4</sup> We Need Diverse Books, < <http://diversebooks.org/#>>

who already struggle to make their voices heard. Further, the independent publishing sector, including publishers such as Magabala Books – Australia's oldest independent Indigenous publishing house, and one of our pre-eminent publishers of Indigenous YA titles – will be disproportionately badly affected by such changes, as large publishers with multi-national links will have a far greater chance of survival than the small presses that are responsible for so much of the diverse literature that reflects the realities of twenty-first century Australia.

The Productivity Commission's suggested changes will result in fewer Australian authors and books being published, resulting in a lack of title variety for the very readership who thrive on Australia's vibrant and increasingly diverse literary scene.

Scholastic Australia recently published '5 Australian Kids & Family Reading Report'. This landmark report investigated what kids want in books, and found that diversity and variety is key;

- *An overwhelming majority of kids aged 6–17 agree that their favourite books—and the ones they are most likely to finish—are the ones they pick out themselves.*
- *Above all, children aged 6–17 want books that make them laugh, and what parents want in books for children is often the same as what kids want for themselves.*
- *Nearly three-quarters of kids aged 6–17 (74%) say they would read more if they could find more books that they like.*

#LoveOzYA further notes that the Productivity Commission's report has not addressed the unique needs of Indigenous creators and their relationship to the Act. Copyright issues relating to Indigenous peoples have been summarised by the Australian Copyright Council as follows:<sup>6</sup>

- *copyright in an artistic work usually expires 70 years after the death of the creator so there is no copyright protection for old Indigenous artworks such as rock art;*
- *because copyright does not protect ideas, methods or styles, it does not prevent people using styles belonging to certain Indigenous communities such as dot painting;*
- *because copyright law only applies to works which have been “recorded” in some way (for example, written down or recorded on film), it does not protect aspects of Indigenous culture which have never been recorded (this is more relevant to music and stories); and*

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<sup>5</sup> Scholastic Australia, 2016 *Australian Kids & Family Reading Report* < <http://www.scholastic.com.au/readingreport> >

<sup>6</sup> Artists – Indigenous: INFORMATION SHEET G082v07 May 2014, Australian Copyright Council [file:///Users/Danielle/Downloads/Artists%20-%20Indigenous%20\(G082v07\)%20FINAL.pdf](file:///Users/Danielle/Downloads/Artists%20-%20Indigenous%20(G082v07)%20FINAL.pdf)

- *there is only an obligation to get permission from the copyright owner – there is no obligation to get permission from an Indigenous community whose customary laws apply to uses of a work.*

Issues relating to Indigenous peoples and copyright have been well known in Australia since at least the publication of the ground-breaking *Our Culture Our Future* report in 1998 and the deficiencies in legal protection have resulted in a proliferation of protocols relating to dealing with Indigenous material<sup>7</sup> – and yet the Productivity Commission has failed to take account of these concerns. The approach taken by the Productivity Commission is at odds with the *UN Declaration on the Rights of Indigenous Peoples*, which was endorsed by Australia in 2009. Moreover, the Productivity Commission is recommending reductions in copyright protection – which would reduce the already threadbare protection available to Indigenous peoples – at the same as the government is proposing increasing protection for Indigenous knowledge in a different area of intellectual property law (patents) by implementing the *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS) to the Convention on Biological Diversity*. This will result in inconsistencies in protection across different areas of intellectual property law. The Intellectual Property Arrangements April 2016 Productivity Commission Draft Report's failure to recognise and respect the unique copyright needs of Indigenous Australians is of great concern to the #LoveOzYA committee.

We are living in exciting, if trying times for books. The Internet has the potential to be one giant book club, and indeed movements like #LoveOzYA have grown from online community hubs gathered around celebrating youth literature. But it's because of our community and online focus that #LoveOzYA and its supporters firmly reject the Productivity Commission's proposals. There is unprecedented communication and interaction between authors and readers these days – nevermore than between young adult authors and their teen readers who engage with these books across multiple platforms and social media sites. For this reason, teen readers and lovers of YA literature reject the changes because of the many ways this will adversely affect the work of authors, including their ability to make a living from writing. As one #LoveOzYA supporter and signatory to this letter told us; 'As a reader I don't want future generations of authors to have to choose between writing and earning an income.'

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<sup>7</sup> For example, the *Australia Council for the Arts Protocols for Producing Indigenous Australian writing* (as well as other protocols relating to visual arts, media arts; performing arts; and music); the *Australian Institute of Aboriginal and Torres Strait Islander Studies Guidelines for Ethical Research in Australian Indigenous Studies*; the *Australian Institute of Aboriginal and Torres Strait Islander Studies Guidelines for the Ethical Publishing of Aboriginal and Torres Strait Islander authors and research from those communities*

The #LoveOzYA committee on behalf of our widespread and passionate community, want it known that we vehemently oppose these proposed changes, and will do everything in our power to make sure they do not get a foothold in our industry.

Kind Regards,

**The 2016 #LoveOzYA committee:**

*Bec Kavanagh (chair)*

*Danielle Binks*

*Adele Walsh*

*Ambelin Kwaymullina*

*Amelia Lush*

## Appendix 1

About #LoveOzYA → <http://loveozya.com.au/>

#LoveOzYA was formed in June/July 2015, as a response to data obtained by the Australian Library & Information Association (ALIA), which indicated that Australian YA literature was struggling to attract Aussie teen readers – and largely because of American YA enjoying successful film & TV adaptations, expanded into Hollywood franchises which were overcrowding and overshadowing the smaller Australian YA market.

#LoveOzYA was formed by passionate writers, editors, publishers, publicists, bloggers, vloggers and readers from all walks of life who love Australian YA. We wanted to help our national youth literature be heard above the roar of Hollywood’s YA book adaptations (*The Hunger Games*, *Divergent*, *The Fault in Our Stars* – the list goes on), and to show Aussie teens that America does not have the final say in teen culture, and their Australian stories are just as vital and vibrant.

In our discussions with teen readers we have found that *where* they purchase books has a huge affect on *what* they read and *how* their reading habits are influenced by algorithm recommendations. If they buy online from Amazon (US-owned) or Book Depository (UK-owned), those algorithms are not designed to aid in the discoverability of Australian titles and authors.

To combat these issues, #LoveOzYA has started a dialogue with young Australian readers and lovers of Aussie YA; explaining why a ‘buy local’ mentality aids our national publishing industry and how it supports authors. We have been promoting the purchasing of books from independent bookshops, and trying to raise awareness of Australian territory titles of international books (discouraging the buying of overseas editions online from places like Amazon, when the rights have been bought by an Australian publisher). Indeed, #LoveOzYA’s very slogan of “Read Local” is intended to invoke the “Buy Local” philosophy – not least because there is ample evidence that buying books for children and young adults to read for *fun* is often dependent on bricks and mortar bookstores and libraries with children’s book specialists. This has been most recently outlined in Scholastic Australia’s ‘Australian Kids & Family Reading Report’;

- *Libraries, school book fairs and book club catalogues, and bookshops are the leading sources children aged 6–17 use to find books to read for fun. Parents also frequently turn to libraries and bookshops to find books for their child to read for fun, followed by the school book fair or book club catalogue.*

Scrapping Australia's current parallel importation rules and collapsing territorial copyright would be disastrous for the publishing industry, and authors in particular. As Richard Flanagan once wrote;

*The consequences will be job losses, public revenue losses when profits are transferred overseas, and a brutal reduction in the range of Australian books publishers will be able to publish. Australia will become a dumping ground for American and English books, and we will risk becoming – as we once were – a colony of the minds of others ...*

But would also hurt readers who desperately want to support our local books industry. Such changes would undo a lot of the good work done by grassroots organisations like #LoveOzYA, and all the passionate supporters who want to help our youth literature sector grow and prosper with a “Buy Local” & “Read Local” mentality.

Ditching Australia's current parallel importation rules and collapsing territorial copyright will see Australian publishing devalued, resulting in fewer Australian authors and books being published. #LoveOzYA believes this will have huge knock-on effects, particularly to the range and diversity of Australian YA titles being offered to our teen readers.

As it currently stands Australia has a vibrant and successful literary scene, as Tom Keneally highlighted for 'The Australian Financial Review';

*Our industry produces more than 7000 new books annually and generates \$2 billion in revenue. More than 1000 businesses in Australia are engaged in the publishing industry, and directly employ more than 4000 people. Many are, of course, small businesses. Australia has the 14th largest publishing industry in the world and the largest independent bookseller section in the entire English language market.*

And within the industry we have a thriving and vital youth literature sector, one that has seen the creation of;

- **The Inky Awards** – the only youth literature awards of their kind in Australia. Both the longlist and shortlist are selected by young adults, and the winners voted for online by teen readers and reviewers (aged 12-20)
- **Centre for Youth Literature** – (CYL) helps connect Australian teenagers with books, stories, writing – and each other. An organisation that fosters a love of recreational reading in young adults. They also organise the biannual Reading Matters conference – Australia's leading youth literature program.

- **Young Australians Best Book Awards** – (YABBA) run by a volunteer committee that seeks to provide children a voice within the general Australian children’s book industry, by encouraging children to recommend recent Australian published books.
- **The Text Prize for Young Adult and Children's Writing** – an unpublished manuscript award from the independent Text Publishing, it is awarded annually to the best manuscript written for young readers and has unearthed extraordinary, multi-award-winning books and launched international publishing careers.
- **The Ampersand Prize** – Hardie Grant Egmont’s annual Ampersand Prize for debut YA & middle-grade novelists has uncovered an exciting and diverse range of new and emerging Australian young adult authors.
- **The 100 Story Building** – is helping to unearth our next generations of young writers, by encouraging kids to creative writing projects and connecting them with authors for workshops.

Not to mention our own grassroots movement in #LoveOzYA as a means to bring the entire Australian youth literature community together. We are all dedicated to finding, producing and celebrating the very best Aussie YA stories – because Australian children deserve to have their stories told and their voices heard – stories that get them hooked on reading, and make them readers for life. What we can’t afford is to have parallel importation rules and gutted territorial copyright diminishing our national youth literature because authors can’t afford to keep writing.

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