

Writers have a right to get as rich as they can

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The Rudd government was criticised by a near consensus of journalists and media commentators for its decision to leave in place parallel import restrictions on books. These restrictions allow authors to negotiate contracts that prevent work they have published overseas from being imported back into Australia.

The US and Britain have similar provisions. Opposition to the government's decision focuses on its apparent intent in protecting local book publishing and printing from overseas competition. The concern is that local publishing and printing is likely to be more expensive than overseas supply, especially if it is shielded from competition.

But another dimension concerns the rights of authors to exercise control over their work. Removing such control prevents them from selling their products at different prices in different markets and means authors would earn less.

Take the case of a cricket book. An author might think he could maximise revenues if his book were to be sold in Australia at \$20 but in India for \$10. But unless the author could prevent the cheaper Indian copies being imported back into Australia, the books would effectively be sold at the same price across the world. This would mean the author would either have to sell at the \$10 charged in India and see lower revenues in Australia, or sell across the world at \$20 and see lower revenues from India.

There are already restrictions on the ability of publishers (the agents of the author) to prevent books from being reimported. Moreover, copyright owners face practical difficulties in enforcing import restraints because of cross-border sales and supply from internet sellers such as Amazon. Regulations that allowed cheaper copies to be imported would exacerbate these difficulties.

The Productivity Commission recommended a reduction in the time the publisher could prevent an author's work being imported, arguing: "Most of the benefits of protection accrue to publishers and authors, with demand for local printing also increased.

"Most of the costs are met by consumers, who fund these benefits in a non-transparent manner through higher book prices.

"But the restrictions also cause economic inefficiencies and a significant transfer of income from Australian consumers to overseas authors and publishers."

In his former position as chairman of the Australian Competition and Consumer Commission and since, Allan Fels has campaigned against copyright holders being allowed to restrain resale of their work by the use of contracts entered into with the printers and publishers. He argues, as does the PC, that such restraints mean higher prices for consumers.

While there is no merit in protecting industries from import competition, there is a compelling case for allowing copyright owners to sell their work at whatever price they wish. It is the copyright owner's property. The owner, or his or her agent, is not forcing anyone to buy the product, merely agreeing to sell it only on condition that resale is restrained.

The ability to charge a higher price in those markets where the work has a higher value allows authors to earn more. It is common with syndicated newspaper columns that are published almost simultaneously across the world.

In fact, many goods ranging from weapons to land parcels to tram tickets are sold under contracts that restrain their resale. Sometimes such contracts mean the owner sacrifices revenue as a result and sometimes, as with authors, it is an attempt to segment the market to improve earnings. Whatever the reason, a fundamental basis of economic efficiency (as well as of justice) is that it is an owner's prerogative to sell or otherwise dispose of their goods on the terms they wish.

To forbid a property owner from seeking the best return from that ownership in order to bring about a lower price for consumers is expropriation. The PC appears to have recognised this. It proposed that financial assistance be provided to authors to compensate them for the reduced value of their copyright. But such measures bring their own complications. As is the case with Australian film funding, the grants would tend to go to politically correct works that have no resonance with the public.

The immediate consequence to authors of measures that impede their marketing options is lower remuneration. The secondary effect is a diminished incentive to create original material, which is likely to rebound on the interests of consumers as well as producers.