Australia and the beanstalk - the illusion of regulatory autonomy in the negotiation of intellectual property trade provisions

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Regional variety in regulation can be likened to friction in a commercial system.

Harmonisation tends to reduce transaction costs, but have we paused to consider the overall value of the bargain we have struck?
An overly generous system of IP rights is particularly costly for Australia — a significant net importer of IP, with a growing trade deficit in IP-intensive goods and services.

Productivity Commission report into Australia’s Intellectual Property Arrangements

- A reasonable term for copyright would be 15 to 25 years after creation.
- The introduction of a “fair use” exception to copyright infringement
- Expressly excluding business method and software patents from being patentable subject matter
- Enshrining Australia’s right to circumvent geoblocks on content
Figure 17.1  
**Trade in IP-intensive goods and services**

(*$ billions*)

- **Exports**
- **Imports**

*Imports more than doubled over this period and the IP trade gap has increased.*

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**Figure Notes:**
- Total value of trade in IP-intensive goods and services includes patent-intensive goods, copyright-intensive goods and services (consisting of merchandise goods and copyright services as measured by the value of royalties, licence fees and other charges) and trade mark-intensive goods. An explanation of the methodology used to construct estimates is contained in appendix C.

*Source: Appendix C.*

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Figure 17.2  Australian patent applications filed abroad

Source: IP Australia (2016a).

Figure 17.3  Patents granted to residents and non-residents

Source: IP Australia (2016a).

Australia’s position in the IP value chain
Improving the evidence base and analysis that informs international engagement (especially trade agreements with IP provisions) would help the Australian Government avoid entering agreements that run counter to Australia’s interest.

Productivity Commission report into Australia’s Intellectual Property Arrangements

- A return to WIPO
- Collection of data and a unified body responsible for advising
- The preparation of model agreements
- An Standards approach to IP
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