

Melkonian & Company

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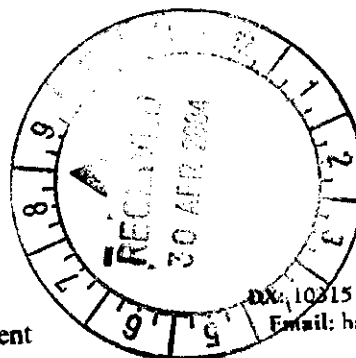
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30 April 2004

Secretary
Senate Select Committee on the Free Trade Agreement
Between Australia and the United States
Suite S1.30.1
The Senate
Parliament House
Canberra ACT 2600



Proposed Free Trade Agreement Between Australia and the United States of America

Dear Sirs:

I am a practising solicitor, licensed in New South Wales and the American States of California and New York. I am writing to you in my capacity as an individual and not on behalf of any client or special interest. From time to time I represent American interests seeking to do business in Australia as well as Australian businesses seeking opportunities in the United States. My practice includes publishing and entertainment. I have enclosed a brief description of my qualifications and professional memberships.

Based on my experience in representing Australian businesses doing business in the USA, I believe that a primary obstacle for exports has not been tariffs but rather has been the high cost of marketing products in the USA. This is not an issue that can be resolved by the FTA. By this, I mean that the USA is a very large country and marketing expenses can be enormous by Australian standards. In the area of consumer products, very few, if any, Australian companies have the resources or resolve to make the necessary expenditures to make inroads into the US consumer markets. In this respect, I believe that the benefits of the FTA have been exaggerated.

Since the USA and Australia are both high-wage/high cost countries, it is unlikely that the FTA will have major economic consequences with respect to consumer goods, including apparel, for either country. Given the added dimension of trans-Pacific shipping, it is difficult to our local industry being overwhelmed by US produced goods. I suggest that trade agreements between countries with different cost structures (such as China) are far more significant and present a much greater risk of harm to the high-cost country.

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Both Australia and the USA are major agricultural exporters. Both countries support their primary producers: Australia with favourable tax treatments and the USA with overt price supports and subsidies. Neither country is a likely major market for the other. The fact that the FTA does not grant benefits to certain commodity producers (such as sugar) is probably not that important because both countries artificially support their domestic industry.

Copyright and trademarks are central areas of my legal practice and I have paid close attention to the FTA. By and large, Australia, the USA and most of the developed world have been working toward uniform intellectual property laws for many years. The US and Australia are parties to many of the same international treaties. The only change of significance that I can find in the FTA relates to the term of copyright protection wherein Australia agrees to change its term from life of author plus 50 years to life of author plus 70 years (the US term). Despite some media attempts at making this controversial, it is really not significant. The US term was expanded to life plus 70 to bring its laws into alignment with the European Union. Despite the highly questionable justification for such a long term of protection, life plus 70 is now the standard among Western nations. Australia probably should conform.

In conclusion, while I find very little that is truly controversial in the proposed agreement, it also appears that it will accomplish very little other than as a political document. From an economic standpoint, it seems difficult to justify the agreement. On the other hand, given the amount of effort that has gone into the drafting, it may be politically hazardous for it to be rejected.

Yours faithfully,



Harry Melkonian

Harry G. Melkonian

Professional Memberships:

Law Society of New South Wales
Copyright Society of Australia
American Bar Association
International Trademark Association
Copyright Society of the USA
American Intellectual Property Law Association

Law Practice Admissions (all current and in good standing)

New South Wales, Australia
California, USA
New York, USA

Education

University of Western Sydney
Masters in Astronomy (2003 with Distinction)

King's College, University of London
Postgraduate Diploma (2002 with Merit) (UK, European Union & US Law of Copyright)

New York University School of Law
Juris Doctor (1974 cum laude)
Academic Honours: Editor, New York University Law Review (1973-1974)
NYU Founders Day Award (1974)
John Norton Pomeroy Prize (1973, 1974)

University of Rochester
Bachelor of Arts (1971, Anthropology)