

# How to maintain a world-leading publishing sector

**The Authors' Licensing and Collecting Society submission to the APPG on Publishing's call for evidence on how to maintain a world-leading publishing sector**

## 1. BREXIT

**WHAT IMPACT IS BREXIT LIKELY TO HAVE ON THE UK PUBLISHING INDUSTRY? WHAT CAN THE GOVERNMENT DO TO ENSURE THAT THE INDUSTRY IS PRIORITISED IN ANY TRADE NEGOTIATIONS WITH THE EU OR THE REST OF THE WORLD?**

- 1.1. UK authors' works – books, journals, films, radio and television works – have continuous sales potential internationally and in European markets. As a result it is important that UK cultural exports have continued access to foreign markets. Significant barriers to distribution internationally can result from diverging copyright and licensing models, as we change our relationship with the EU and our engagement on copyright laws this could become more noticeable. Within the EU the EU Digital Single Market strategy includes measures to further harmonise copyright and licensing models. Uncertainty as to whether the UK will coordinate with these efforts make it unclear how much access the UK will continue to have to these markets.
- 1.2. In our 2013 studies *What are words worth now?* and *What are words worth now: further findings* we found that typical (median) incomes of professional authors fell by 29% from 2005 to 2013. This was due to a range of factors, including 44% of respondents seeing the value of advances declining and 30% seeing an increase in the use of buy-out contracts that would lead to no further payment of royalties. To reverse this trend it is important that we take measures to secure fair remuneration and contracts for authors; there has been ongoing progress on this in the EU and we must have a clear UK solution to this issue ahead of Brexit. The value of authors incomes underpins the sustainability of the creative forces that contribute to the world-leading publishing sector that we have in the UK.
- 1.3. There are proposals within the Draft Directive on the Digital Single Market that have yet to be addressed in the UK and which could lead to fairer terms for authors thereby redressing the worrying trends identified in the research referred to above.
- 1.4. The draft Directive proposes two important safeguards for authors:
- 1.5. Transparency: a right to regular, timely, adequate and sufficient information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights, including details of modes of exploitation, revenues generated and remuneration due. This right will apply even if copyright has been assigned and will allow authors to assess how their work has been used.
- 1.6. The so-called 'bestseller clause': a right to claim additional, appropriate remuneration if the contractual remuneration is disproportionately low compared to the subsequent revenues and benefits derived from the exploitation of the works or performances. One area this

could have a substantial impact is in educational publishing, where publishers are increasingly paying authors only a low flat fee. This clause would help avoid current practice where an author typically receives no further payment even if the book later becomes a highly successful curriculum textbook used in every school.

- 1.7. Measures to ensure the sustainability of writing as a career will ensure the sustainability and diversity of contribution from creators that has made the publishing sector in the UK a historic success.

## **2. COPYRIGHT AND INTELLECTUAL PROPERTY**

### **HOW CAN WE BEST PROTECT OUR CONTENT AT HOME AND ABROAD?**

- 2.1. The interplay between UK and EU copyright law is an area of uncertainty ahead of Brexit. UK copyright law has been strongly influenced by various EU Directives over the last 25 years; the extent to which this continues to be the case depends on the terms of the exit settlement negotiated by the UK Government. To add to this uncertainty, as part of its Digital Single Market programme, the EU is currently undertaking a significant review of copyright law. Following the Hargreaves Review, UK copyright was reformed to address the realities of the digital-use environment adopting a number of measures currently under consideration within the EU debate. It would be highly disruptive and counter-productive to initiate a further, wholesale review of UK copyright in response to the EU reform programme.
- 2.2. Stability and continuity will be extremely important. The UK benefits from a strong intellectual property regime that incentivises creation encouraging by allowing authors to protect and exploit their work to make a living from it. It is particularly important that there is no shift towards the US style model of “fair use” which significantly disadvantages creators’ rights, or the Canadian system of unregulated extension of “fair dealing” that sees large scale uses of published works go unremunerated. With recent reviews of the UK copyright regime we have achieved a legislative framework that is able to respect the rights of both creators and users whilst being able to deal with the challenges of modern technology and its impact on culture. The UK has also established a clear balance between rights and exceptions to ensure that authors are suitably rewarded for their creation, whilst making their work available to users. In consideration of the current good health of copyright and intellectual property law it is a priority that the status quo is maintained.
- 2.3. As digital technologies and services provide increasing opportunities for diverse and fragmented uses of published content, collective rights licensing has an important part to play in securing added value for both publishers and authors. Through the Copyright Licensing Agency (CLA) publishers and creators have a well-established mechanism for collective licensing within the UK which is underpinned by a recent independent determination of revenue allocations as between the various CLA stakeholders. Authors clearly value income from collective licensing; research<sup>1</sup> indicates that a decrease in this revenue source could lead to a reduction of almost 30% in new projects being undertaken. It is therefore vital for the publishing industry that collective licensing continues operate effectively and on terms that provide fair rewards for authors and other creators.
- 2.4. Collective licensing has also been successful in securing secondary revenue streams from across Europe but with the ongoing uncertainty over future UK trading terms post-Brexit, it

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<sup>1</sup> An economic analysis of education exceptions in copyright, PWC, 2012

is increasingly important for authors and publishers and their representatives to support CLA initiatives to develop licensing within new, global markets.

### **3. EDUCATION AND RESEARCH**

#### **HOW CAN THE SECTOR CONTINUE TO SUPPORT THE UK'S POSITION AS A GLOBAL LEADER IN EDUCATION AND RESEARCH?**

3.1. The UK sets a global benchmark for quality with educational textbooks and scientific journals. This is driven by the quality of content that authors of educational and research works in the UK produce. As stated before it is important to ensure that authors are rewarded to encourage continued creation, the payments from one work are the seed funding an author for their next work. As an example of how the strength of publishing in these areas can be endangered by poor policy making, Canada is becoming a case of concern: in Canada "fair dealing" to cover uses of published works has extended without regulation since 2012, leading to a significant drop in royalties, approximated to as much as 80% in Canada's collective licensing agency's 2016 Annual Report<sup>2</sup>. By undermining creators in a way such as this a country cannot expect to sustain authors and publishers in their nation for the materials their educational institutions require. Supporting the existing copyright and intellectual property regime will ensure that the UK continues as a success story in this area by maintaining the opportunities in creating works that will be used in the UK and abroad.

### **4. LITERACY**

- 4.1. The UK is a nation of readers and the benefits of this reach beyond the writers and readers it makes for publishing in the UK.
- 4.2. Studies by the Reading Agency<sup>3</sup> have found:
- 4.3. 16 year-olds who read books for pleasure outside school are more likely to secure managerial or professional jobs in later life.
- 4.4. In England and Northern Ireland the median hourly wage of workers with highest levels of literacy is over 90% higher than for workers at lowest levels.
- 4.5. Incomes per capita are higher in countries where more adults reach the highest levels of literacy proficiency.
- 4.6. Literacy is a boon and we take it for granted at our risk, as the Reading Agency has also found that low levels of literacy cost the UK an estimated £81 billion a year in lost earnings and increased welfare spending Children and adults should be encouraged to and given the opportunities to read for pleasure and self-development. The value of reading is made accessible at all stages of life through educational institutions, bookshops and public libraries. In particular, among these libraries are endangered by cuts, risking the value these provide to society as a place of leisure, learning and self-development both with books at the core of their service but also with the innovative approaches many libraries take to engage with their local communities.

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<sup>2</sup> Access Copyright. 2016 Annual Report.

[http://www.accesscopyright.ca/media/112021/annualreport\\_2016.pdf](http://www.accesscopyright.ca/media/112021/annualreport_2016.pdf)

<sup>3</sup> The Reading Agency. Reading Facts: <https://readingagency.org.uk/about/impact/002-reading-facts-1/>

## 5. THE ALCS

5.1. The Authors' Licensing and Collecting Society (ALCS) is a not-for-profit, non-union organization, established in 1977 and wholly owned by the 90,000 authors in our membership. The current membership includes authors working across diverse genres for print, audio, audio-visual and digital publications. We collect money for secondary uses of our members' work, including photocopying, retransmission in the UK and overseas, digital reproduction, educational recording and repeat use via the internet. The ALCS also campaigns on behalf of writers at a national and international level. We aim to ensure that writers receive fair payment for the use of their work, and that writers' rights are recognised and respected. We inform our members of issues that may affect them, such as copyright developments in the EU, national policies affecting Public Lending Right and copyright exceptions, and the growing problem of unfair contracts for writers.

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